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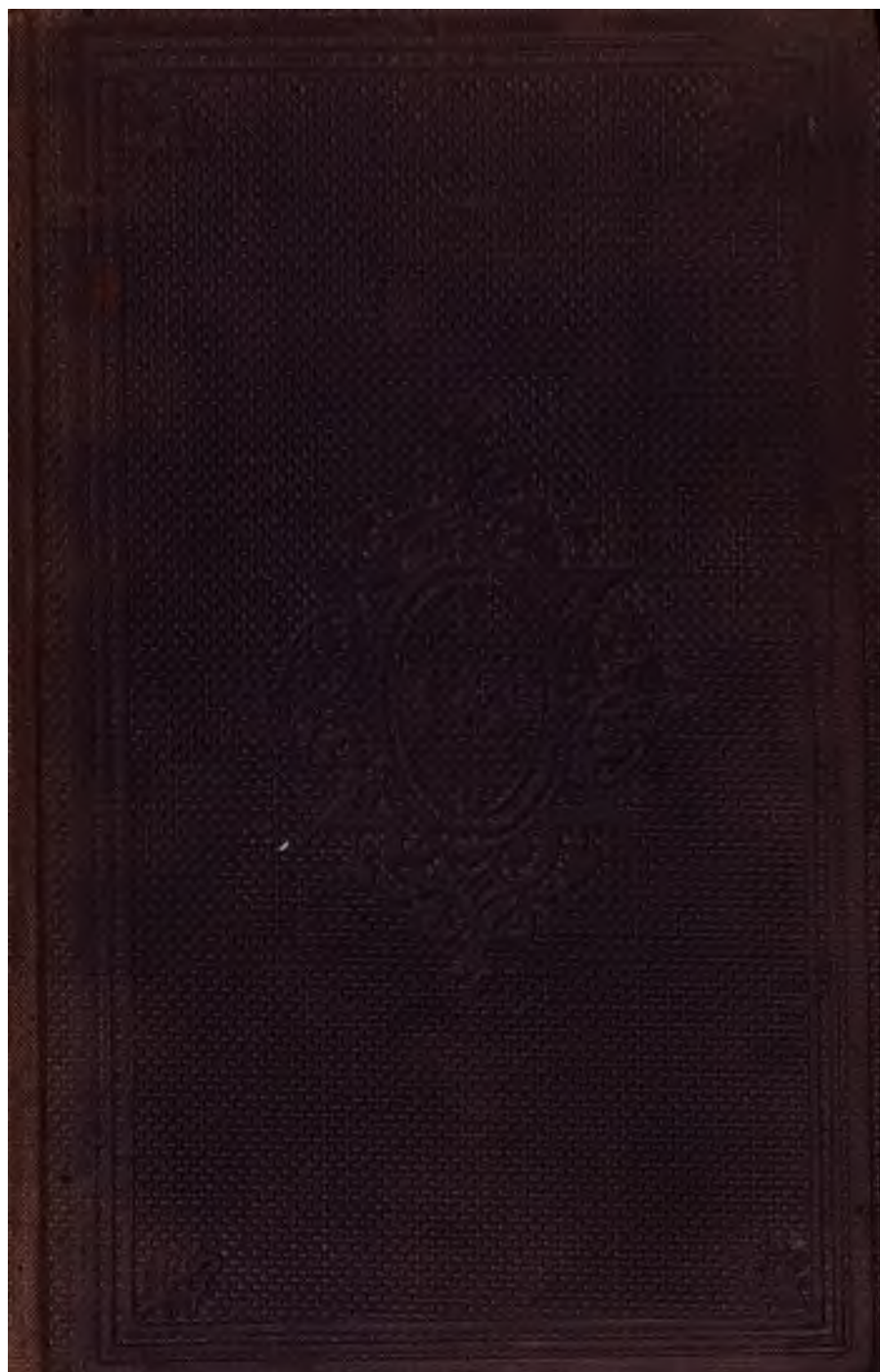
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THE EIGHTH COMMANDMENT.

THE

EIGHTH COMMANDMENT.

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THE EIGHTH COMMANDMENT.

JUSTICE is the queen of the virtues, and the durable policy of men and nations.

To urge on behalf of justice, that, in literary commerce, and in all other trades and transactions, she pays best in the long run, is to lower her ; for if she did not pay at all, our arms ought to fly open to her, so good and beautiful a thing she is.

Unluckily I have to plead for her, not to angels, but to members of Parliament.

Now these are mixed men, and must be handled accordingly. Some of them can rise to noble sentiments ; others can rise, with a little shove from the feathered lever, to long-sighted views of national interest ; and others can rise to nothing ; they represent a large constituency.

Those two classes in Parliament and the nation will now be invited to cleanse the country of an unwise iniquity.

Should the appeal fail, I shall have to go on blushing for the people I was born among.

Still I consent to fail, if I cannot convince my men of honour that the act in question is unjust and perfidious, and my men of sense that it is shallow, unstatesmanlike, and impolitic.

CAP. II.

FOR the last nine years we have been juggling an ally ; the very one that ought to have been sacred from our "tricks of trade."

For it is the first ally that has ever fought by our side without sending us in a bill. Other nations have been our mercenaries, but this is our brother in arms.

Our individual victims have been as ill selected as their nation. The French dramatic authors are men, to defraud whom is to disgrace oneself: first, because they are about the most distinguished body in the entire world; secondly, because their public acts, recorded in British and other journals, are very just, generous, and delicate.

The English are never unanimous in injustice. A few remonstrating voices have been raised at intervals.

I myself have spoken a word or two, and done a thing or two, and been bespattered with a calumny or two, and bled a hundred pounds or two, in this sacred cause; and, so far as my personal narrative can aid the general argument, it shall be forthcoming in its place. But grander figures shall pass before your eyes. I am but an heir to their intelligence, and their views of policy and right.

And here it is only fair to utter a warning that may perhaps part me and half my readers on the spot. Loose thinkers assume that a gentleman who writes fiction in his novels must write fiction in his essays, and his records of fact. Non sequitur. To import the charming defects of fiction into History and Criticism would be to corrupt fair Science, and offend rectitude and good sense.

My tubs must stand each on its own bottom.

All I can here promise my *habitués* is not to wash the colour out of those true incidents I have to record.

CAP. III.

CIVILIZATION has many meters.

Criminal law learning to spare light offences against morality, and to net subtle vices. The other branch of jurisprudence giving up the prejudice against "prevention," its fullest and most beneficent remedy; breaking a faggot of fictions, and turning science.

Theology showing gleams of toleration, alias Christianity. In medicine, the lancet setting; soap and water dawning. In criticism (so called), verses on Tarquin by a Whig allowed by a Tory print to be poetry.

Souled animals two hours at dinner instead of four. Decline of drunkenness in monarchs, prime ministers, chancellors, bishops, and dignities in general. Mechanical inventors no longer chastised; often rewarded.

Advance of a Briton's literary property towards the security and sanctity that hedge his house, hovel, haystack, and dunghill.

This last is a sure though indirect sign of progress.

Not that writers are a more important body than many others; but because it gives the State more trouble to keep thieves off their productions than off other skilled labourers'; and also because it needs a superior intelligence to see that ideas, and woven words, can be made property, and that they must be, or else their authors outlawed, degraded, and starved, and the community suffer in the end. Wherefore those who can gauge the understandings of nations hailed as an era in civilization the year 1851. For in that year the chief nations of Europe agreed that intellectual property should pass frontiers and sheets of water, yet still be property. They protected each other's authors by an International Copyright Act, putting them on a level with the native author *for a term of years*.

It was a large act of equity and fraternity, and a step towards that great human blessing still so distant, uniformity of laws in civilized countries.

Such an act was too noble a thing to be openly opposed, and far too noble not to be furtively resisted by some creeping thing or other. Accordingly, the legislatures of France and England undertook, and honestly intended, to protect every class of authors upon suitable conditions: these in the case of the dramatic author were somewhat severe and harassing: but this added sanctity to the protection he was to acquire; for this kind of law is a special contract between the legislature and the citizen interested.

Here we see the mind of the two legislatures. But presently was smuggled in a proviso that shines forth both in its wording (*a*) and morality, the product of a distinct mind, and an English mind, and a theatrical conscience, instead of a legislative one.

The results are, —

1. A Statute divided against itself.
2. An Act, that aimed at international justice, degraded into a feat of partiality and international injustice.
3. The French inventor robbed, and the English inventor starved, to foster the most dishonest and the stupidest of all the literary pirates, that filch under false colours, from China to Peru.

This is no hasty conclusion. Words and acts of mine are in print to show how reluctant I was to believe the protection sold so dear to the dramatist in the heart of the statute is *all* juggled back in the proviso, together with the heavy expenses the promised protection inveigles him into.

For years I kept saying there must be some difference now-a-days between Legislation and Leger-de-main; and

(*a*) The proviso runs thus: *It is understood that the protection stipulated by the present article is not intended to prohibit fair imitations, or adaptations of dramatic works to the stage in England and France respectively, but is only meant to prevent piratical translations.*

"Adaptation" is an English word, and represents an English practice of two hundred years. "Appropriation," in the French version of the statute, is an attempt to translate this word, and an unsuccessful one. So is "*imitations faites de bonne foi*" an attempt to render that other piece of "thieves' Latin" into honest French: but the attempt has failed, and the law stands worded somewhat differently in the two languages. So that a dramatic inventor might win in France a suit versus *imitatorem* that he would lose in England, and the contradictory verdicts rest on the same sentence of the same statute.

that difference must be all in favour of justice, broad policy, and national honour. I am undeceived; and so shall the public be, and those British senators, who in 1851 were earwigged (a) by the smallest dunces of the century into poisoning their own fair child, and making a fool of me, and the French authors, and themselves. The best way to remove the scales from others' eyes must be to relate in order how they have been torn from mine, explaining by the way the immortal principles involved in this passage of my life. Ay, immortal. Actions small in size are sometimes in principle and policy wide and lasting as the world.

These comments will carry me into "Literary Statesmanship," and now and then into "Criticism."

How differently my cotemporaries and I understand these noble sciences will be sure to come out by and by. I will just premise that there is, "me judice," but one road to truth in literature, or any human thing; viz., the method of the Naturalist and the Jurist; and that I propose to import their method into "Literary Statesmanship" and "Criticism," so far as my shallow learning permits. Every general position advanced in this piece is the fruit of investigation, and will be sustained by legal, or else by quasi-legal evidence. By this latter term applied to so wide a field as a writer's, is meant *the highest class of evidence attainable on any given point; or, to use general terms, direct evidence of such a stamp as, could it pass the forms of their respective courts, would weigh with Prussian, French, English, or American judges, deciding property or life.* These are great stakes: but Truth is never a small one; and, in matters of literary judgment, she has too long been left to the mercy of tradition and assertion, and guess-work variously disguised, while theft at the bar can insist on pure evidence, and suits at *Nisi Prius*, that end in 40s., are sifted with the gathered science of centuries.

This is all right: so *that* must be all wrong if Truth, per se, is worth a straw.

Evidence then will follow each statement marked *, surely, but sometimes slowly, narrative intercepting.

(a) This is a vulgar, but invaluable word. It is applied when public men listen to private parties creeping to their ear on the sly. Earwigs should be shrunk from. Convictions bawl. 'Tis interests whisper.

Therefore, should a tenet with a * startle you, don't reject it, nor admit it, but entertain it under protest till its proofs arrive.

The * that comes a Paradox may go a Truism.

C A P . I V .

EITHER a treaty between two nations binds every individual of each nation, or no individual in either nation.

Since there is no third alternative, decide between those two!

You have decided as I decided in 1851.

True patriots stand to a bad bargain made by their representatives, rather than discredit their nation in foreign eyes.

But the bargain of 1851 is a fair one; for it is an even one.

When a strong nation dictates unequal terms to a weak, or a subtle outwits a credulous, the treaty talks thus: "You shall give me A, and I will give you what I choose;" or thus: "You shall give me A, B, and C, and I'll give you D, E, and F." Here sly selection peeps.

But when it says, "You, and you, and you shall give me A, B, and C: and I'll give you, and you, and you A, B, and C, one might as well try to tarnish the sun in heaven as disparage the leading principle of such a treaty.

The voice is the voice of Equity, and the words are, "Give and take!"

Equitable between people and people, the Treaty of 1851 was also just between man and man. It removed a relic of sordid partiality from the laws of Europe. I will explain.

An author, in the opinion of the public (unless its acts and arguments are no clue to its impressions), is

(The Popular idea of an Author.)

A disembodied spirit, solidified at intervals to pay taxes

and tradesmen, returning to æther when the funds are to be acquired, without which tradesmen (a) and taxes cannot be paid. As a debtor, flesh and blood; and to be clapped in prison with comments on his bad management: as a creditor, soul: and if he won't let those who live by him cheat him and starve him into debt, you sigh, and down goes another of your bright illusions. "Oh, hollow world!" is now the cry; "this poet was the idol of our fancy and our heart: we worshipped him: so deep, so sincere was our veneration, that we were for swindling him into the workhouse, and his wife and children for his sake; and the hollow impostor says (b) 'he'll see us hanged before he'll let us.'" (Short metre).

But Law is not a romantic rogue, nor a sentimental butcher; and in the eye of the Law an author is

Not a tax-paying vapor, nor an embodied debtor, spirit creditor, nor any *lusus naturæ* whatever, but simply a skilled labourer employed in producing.

His production becomes his sole property, not because he is an author, nor because he is a workman, but because he is a workman who has bought all his materials, viz., writing-paper, pens, ink, education, knowledge, and has done *all the labour of the production, and not compounded his title to it for wages.*

Now from this, its universal creed of labour and property, European law had excluded one human creature, the foreign author.

Here is a glimpse of the defunct theory at work.

An author with 2000 (c) hours' labour creates an intel-

(a) These ninnies pester one for coin. Blind to their true interest, they won't take a bright idea in exchange for a leg of mutton, or a shirt.

(b) The poet who vented so coarse an octosyllabic was perhaps thinking of those great geniuses and benefactors of mankind, whom their cotemporaries have driven into the jail, the madhouse, and the grave, by merely acting on the notion that jackdaws live on grain, nightingales and their broods, on air.

The name is legion of martyrs so murdered, and, what is worse, degraded.

(c) Few books tempt another nation to print them, that have not taken more hours than that.

lectual production. * It is saleable *per se*, though muddle-heads have assumed as a self-evident truth that it is not.*

But it is more saleable when harnessed to a distinct property of a miscellaneous kind, comprising paper, print, printers' ink, binding, etc. These are produced, not, like the other property, by one hand, but by fifty hands, working an aggregate of say 1600 hours, and compounding their fifty titles for wages.

Now the in-Justinians of Europe held that when an edition of a *foreign* author was printed, papered, and bound in a country, all those fifty labourers, and all their 1600 hours, ought to be paid as usual, but not one of the 2000 hours of the isolated labourer who had produced the most precious half of the allied property. To narrow the fallacy to one of its points, the French journeyman printers in an English printing-house were to be paid for helping to reprint their countryman's work, but not he for creating it, and making it worth reprinting.

Thus you see it was not the foreigner *quâ* foreigner these self-deceivers outlawed, but an old and favourite victim, the author.

So tight did they cling to this partiality, that * even when they admitted the foreign mechanical inventor to patent rights, they still refused the kindred rights to his elder brother, the literary inventor.*

This last stroke was "a curiosity of legislation" without a parallel.

One nation, to its immortal honour, disowned this blind partiality.

So early as 1810, France, governed by the great legislator modern history has to show against the four or five renowned names of antiquity, took the foreign author under the wing of Justice, and gave him the legal status of the foreign carpenter, printer, and other skilled labourers.

(Forty years ahead! (a) Is no gratitude or kindly feel-

(a) If you look upon our international statutes of 1838 and 1844 as *bonâ fide* statutes, you can reduce the above figure to 28. But statutes, the sole and manifest object of which is to spin words and do nothing, are compositions, not real acts of legislation. Those two sham statutes never put a shilling into any foreign author's pocket. Nor were they ever intended to. Newgate thieves and literary pirates are not to be restrained by buzz, buzz, buzz, even when buzz, buzz, buzz, is printed among the statutes of the realm.

ing due to that noble nation for this? Clearly none — from hogs; but surely some from authors. Well, the time is come for English writers to show whether they are authors or hogs.)

Unfortunately international equity is a see-saw; one legislature can sit and wait on it, but one cannot work it.

French *subjects* very properly declined to buy of foreigners who went on taking from them without buying; and so up to 1851 France and England took gratis from each other's authors whatever intellectual productions seemed worth taking. This was "exchange of commodities" in its primitive form — à la Cherokee.

I myself played my part under this unjust equity. I took from French dramatists the following works, produced before the treaty:—

1. A close version of "La Bataille des Dames," which I called "The Ladies' Duel" (a).
2. An abridged version of "Angelo."
3. "Village Tale," an adaptation from "Claudie." (G. Sand.)
4. "Art," an adaptation of "Tiridate."
5. "Courier of Lyons." A free version.

And, at the very time when the treaty came out, I was on the point of taking the drama of "Le Château de Grantier." Nor did I resign that intention; I only varied the mode. For the object of this treaty was not to prevent foreign authors' ideas from being *taken*, but *stolen*. Before the treaty they could not be stolen, for they were not property; nor could they be purchased; for the foreign author could not sell: he could not give me any undeprivable possession of his work in England, in return for his undeprivable possession of my money in France.

But the treaty created two things, a new morality, and new powers; on the one hand it dissolved equity of mutual pillage, and founded the higher equity of mutual purchase: on the other hand it offered the honest plagiarist that which he never had obtained under the old system, and could never obtain by theft — property.

(a) It was christened in the theatre "The Ladies' Battle."

"Château Grantier" was a fine drama, is a fine drama, will be a fine drama; and though it could not now be *appropriated* malgré the author, by any man of honour or delicacy or respect for his nation, it could clearly be had for money: what can't? I wrote a line then to its author and proprietor, Monsieur Auguste Maquet, and requested an interview, to deal for the commodity in the spirit of the new treaty.

But Monsieur Maquet has so many titles to esteem, that to introduce him merely as "a writer with whom Mr. C. Reade has done a small stroke of business on the square," would be as false in history as a narrow definition is in science. Permit me then a slight sketch of him.

Auguste Maquet was born in the Rue Quincampoix, September 13, 1813.

He had a good father, who knew the value of education, and made him learn at home the lessons he had to say at school.

There was but one difficulty. Auguste was passionately fond of reading. It is a taste which might, perhaps, by an adroit and undignified tutor be reconciled with education; but the simpler course is to curb it.

Maquet's father, observing him to be distracted from the Muse of Grammar by his thirst for such trifles as biography, history, romance, and drama, came to his aid one day, and led him, with kind and encouraging admonitions, to a tranquil spot where he could concentrate his genius on a single production of the human mind.

The retreat was a pigeon-house; the companion-book a Latin grammar.

Leaving these two to blend, Maquet senior retired. By one of those perverse anomalies that are so common, the amateur of grammar had a private library, the shelves of which were loaded with delightful books on every imaginable subject—except grammar. This treasure-house was close to the dove-cot. So our young hawk used to emerge, fill his talons with romances and plays, then flutter back and devour them, palpitating with fear and delight.

After a while his sire discovered this, and once more befriended his solid studies.

He padlocked the pigeon-house, falcon included.

Thus debarred unwholesome food, the omnivorous one fell

beak and talons upon the rudiments of two languages now no more, and devoured them with avidity, but no relish. The fair sex saw, pitied, and interfered with its usual address. A bell-rope hung from an upper story, and nearly touched the aperture of the dove-cot. Maquet's little sister used to draw up this rope and fasten interesting books into the bight; then lower them to the hungry captive.

These two dug a fearful hole in the library.

But one day the French authors, descending rashly, actually went and knocked at Maquet senior's window on the road. He looked out and saw them gravely settle on the Greek temple: a furtive hand came out; they went in.

Maquet senior followed them (not by the same route), and remonstrated kindly, but firmly.

When he came out he removed the padlock, and his son abstained from the library — you understand.

Chased from the Rue Quincampoix by filial affection and respect, contraband literature returned full gallop in the College of Charlemagne. Here it was the young Maquet said the lessons he learned at home, and he came thither letter perfect; so much so that, whilst the others were studying, he found time to write a romance, furtively, under the eye of the professors.

The production of a work of modern art under these conditions has its peculiar difficulties, especially if the composition is on a large scale. I have often seen a stanza or a caricature thrown off with effect in such places; but an immortal painting with really faithful likenesses of the tutors and professors, or a romance in three volumes, is liable to interruption, the motive of which may be childish, but the effect conclusive.

To avert physical accidents from the MS. during its intellectual progress, Maquet was obliged to have a collaborateur; he chose one admirably qualified, by his desk having a patent lock.

All went clandestine and sweet, till the joint production approached its climax: but then, as none but the virtuous can agree long, these conspirators fell out.

The romance turned on the adventures of three friends, whom Maquet had hitherto spared, not from genuine benignity, but because a premature decease in so small a band would have mutilated the story: a tripod can't spare a leg.

But now their hour was come. When, lo and behold, collaborateur interposed with

"Homicide point ne sera."

Collaborateur was one of those tame writers (of whom I am one) who fall in love with dramatis personæ, and hate to shed the poor things' bloods. After a long argument, which roused their ire, and confirmed their separate views, says Maquet —

(a) "Eh bien, soit: partageons le différend! que Nicanor vive et soit heureux! Quant à Petrus, j'exige sa mort. Reste Jehan: nous allons, si tu veux, le tirer à la courte paille."

Genius has no luck. The mild boy drew the long straw; and Maquet, by the stern laws of collaboration, had to assist, with gloomy eye and aching heart, at two weddings, and even to hint at two numerous progenies. This done, he fell upon the wretched Pierre, and, by George, sir, he not only killed him now, but roasted and ate him; brought on a troop of cannibals who did the business in a turn of the spit.

Naughty little boy!

However, there are excuses. He was but thirteen: had never experienced what men feel at being roasted and eaten; and was irritated to fury by the escape of Jehan and Nicanor.

This vent cooled the romance fever, and was naturally succeeded by a lucid interval, in which he gained the first Greek prize at the College. (Rhetoric.)

He bound the laurel on his brows, and began a comic romance in ten volumes. This time he chose for a collaborateur a boy who wrote a beautiful hand, and aspired but to copy and conceal.

But too little intelligence in a literary accomplice is as dangerous as too much. One day the associated caligrapher found a passage under his pen droller to his mind than Rabelais or Scarron, and forgetting that he was copying on the edge of a volcano, burst out into a howl of laughter, amidst surrounding tranquillity.

(a) "Well then; let us split the difference! Let Nicanor live and be happy. But I am determined Pierre shall die. There is Jehan left. We will draw for him if you like."

ibi omnia,
Effusus labor, etc.

There was a general pounce of professors, and the MS. was nailed.

The copyist was fast coming to grief, when Aristides reared himself, and claimed the undivided dishonour of the invention.

It was accorded ungrudgingly, and he was invited to retire to the bosom of his family for the present.

That family did not open its arms to him on this occasion, and poor Auguste, mortified and penitent, averted his eyes from his century, beat his soul into a pickaxe, and mined the ancients with sombre fury.

And now came a new psychological phenomenon. In the intervals of classical toil Auguste no longer wrote or read romances.

He fell into reveries. Sat motionless an hour at a time; cheek pale, brow knit, eye vague, body limp.

His worthy father endured a seated statue of "pale-eyed Contemplation" in his house a good while; but at last it wore out his patience. Like that theatrical manager who insisted on the key-bugle playing on all the same during his "*rest*," he spurred the contemplative one — "*Mon ami, je t'en conjure, travaille sérieusement, utilement! Songe dès à présent à te faire un avenir. Il n'y a rien au monde qui me soit plus antipathique qu'un paresseux.*"

In my quality of writer of fiction may I intrude a different interpretation? Auguste's fits of lassitude and reverie were, I think, the natural consequence of a severe struggle between duty and inclination, in which inclination was defeated; but not eradicated. A woman, whom good sense or principle forces to resign a man she loves, shows just like Auguste; not one diagnostic differs: and there are a few men in every nation who love an art as some women can love a man there is something wrong about. A less worthy youth would have indulged his tastes on the sly, and been jolly as a sandboy *coram Patre*.

In one of these remonstrances something was said which hurt the sensibility or touched the conscience of Auguste, and what does the poor boy do but go off to his old tutor, and offer to aid him in instructing the junior collegians for a bare maintenance, and the usual fees. The offer was warmly

accepted, and the dreamer earned his own bread from that hour.

But as he neared the Rue Quincampoix, he walked slower, for, though proud, he was sad; and might not even this look like revolt?

It was not so read. The father saw his own manly character reflected in his son, whom he had thought his opposite; and gave him his esteem.

Teaching others he taught himself; and venting his romance seems to have agreed with his classical studies better than bridling it. He wrote plays (*a*) with Gautier and Gerard de Nerval, and passed Bachelor of Arts in the University (Bachelier ès Lettres).

Previous to this there was an episode.

One morning he went out shooting in Paris, A.D. 1830. Whether he shot for the crown, or the people, or gave them each a barrel in turn, I don't know; and shall not inquire: for this going out shooting in the streets ("la chasse en ville," eh?) was not among the *serious* pursuits of "the young Frenchman jadis."

Soon after his *baccalaureat*, a Latin prize poem gained him the further degree of Licencié ès Lettres, with great éclat; and being now a student for his Doctor's degree, he set to and wrote a pretty little romance in verse ("Alejo Peres"), and published it, and a host of fugitive pieces, in the periodicals. He signed none with his name, for an University is a jealous mistress.

Spite of this precaution, his "crime de Poésie" oozed out, and the five veteran professors that assembled in the Sorbonne (like our judges in Banco), to hear him read his thesis, and admit him or refuse him Doctor, eyed him ascant from under their square caps, as he bowed to them, MS. in hand.

Moreover, Hugo and Dumas had just raised the standard of the romantic school; the classical school was up in arms; and forty thousand dunces, who were neither romantic nor classical, decided in a moment which of these two beautiful things ought to be eradicated for the sake of one vile thing, — Monotony.

(*a*) One of these, "Lara," was accepted with enthusiasm by the "Odéon," and buried in a drawer; whence, they say, the authors, emulating the manager's indifference, have never condescended to draw it.

Hence a civil war in Literature, and Universities in a state of siege.

The suspected one read a brilliant discourse, reflecting the very sentiments of his judges, and was carrying all before him, when suddenly, in the middle of a suspicious sentiment, came a phrase branded "ROMANTIC," in capitals.

The would-be doctor was insinuating that apologue need not be presented bare of ornament.

"Que serait la fable, sans cette poésie qui nous enchante ? voile diaphane, qui, sans cacher la réalité, lui jette un reflet léger qui l'anime et la colore, comme un frais tissu rose semble donner la vie à une statue de marbre."

Oh ! oh ! "frais tissu rose," cried the square caps, and burst out laughing.

"Frais tissu rose est bien trouvé," said the president, with sly irony.

The young man blushed, and appealed to his tormentors ; began to defend his phrase modestly.

"J'ai pu me tromper, mais enfin, suivant mon système . . ."

"Ah ! vous avez donc un système, vous ?" cried the president, coarsely, interrupting him.

"Pourquoi pas, Monsieur ?" retorted Maquet haughtily ; "vous avez bien le vôtre !"

This was a "coup de Jarnac ;" for the president happened to be a system-monger ; a personage nowise rare in France.

Having shut up his judge, he rolled up his manuscript, and there was no getting him to read another word.

In excuse of this, which looks like temper, I must remark that he was young, and justly offended. In his country politeness mingles in all the relations of life. "Frais tissu rose" may be a little eccentric for aught I know, or a little *petit-maître*, or it may not ; at any rate it is French. But to interrupt (*couper la parole à*) a laurelled scholar with, "Ah ! vous avez donc un système, vous ?" is not French.

Probably the old gentleman saw down to his merit all the time, and only meant to tease him a bit, to take the gloss off him. At all events they appointed him a Professor of Rhetoric soon after. The viper turned on them, and made rhetoric interesting ; he illustrated each point and each topic

with a wealth of classical anecdotes, gilt romantic: he flung so rosy a tissue round the grand but dusty skeleton, antiquity, that his pupils sat thrilled instead of yawning, and cast uneasy glances at the clock, hitherto their best friend. In short, he lectured as Cicero or Quintilian would have lectured in modern Paris, which naturally disgusted the admirers of Cicero and Quintilian. So they watched for him like cats, and luck befriended them. They detected a single false quantity in a piece of verse, the elegance of which was not disputed. He had made "i" in "fidibus" long; a mere slip of memory the more pardonable, as it might very well have been long, to distinguish its nominative from "fides," faith.

With this handle they put another mortal affront on him.

"La cruche qui va souvent à l'eau finit par—se remplir."

Maquet had now had as much cold water thrown on him as flesh and blood could stand; so he flung back one drop of ink.

History caught it as it fell, and here it is.

"MONSIEUR,

"L'Université est une mère bien dure pour ses enfants. Je vais demander à la littérature ce qui l'Université me refuse; gloire et profit.

"L'avenir prouvera si j'ai eu tort ou raison."

And so he dismissed himself from the professariat, and became what we call at our Universities "a private tutor." His family, sympathizing with him, opened its arms. He responded by dining with them every day, and giving a daily lesson to his brothers, *per contra*.

His whole family now underwent him with a resignation that other families should try and imitate.

A genius in a family is a dispensation: it is idle to deny it.

"Durum. Sed levius fit patientiâ
Quicquid corrigere est nefas."

And it would be "nefas" to ungenius our geniuses. Earth is not overrun with them as it is with insects.

Maquet had five or six MS. plays in his desk. One of them, entitled "Un Soir de Carnaval," was proposed to a manager, Monsieur Antenor Joly, and by him admired and declined, according to the formula. Gerard, Maquet's friend,

took it to Dumas. Dumas liked it, waved his magic pen over it, called it "Bathilde," and sent it to a manager, who accepted "Bathilde" with zeal. The manager was Monsieur Antenor Joly. "Bathilde" was played with success.

His next trifle was "Le Chapeau Gris Perle," a story produced in the "Journal de Paris," now called "Le Pays;" and after that we find him on "Figaro."

He wrote a dramatic story, called "Le Bonhomme Buvat," and sent it to the "Presse." Editor kept it a month, then declined it.

As Maquet paced the Boulevards smarting, he met Dumas, who asked him if he had nothing by him. "I have only the 'Bonhomme Buvat,'" said Maquet, sorrowfully.

Dumas pricked up his ears. "That is a good title," said he. "Come, tell me something about your 'Bonhomme.'"

Auguste glowed, and poured out a part of his story.

"That will do: send me the MS.," said Dumas. "I am off to Italy to-night."

Dumas took the "Bonhomme" with him, worked on him, and in a few weeks the "Bonhomme" came out, and charmed all Europe as "The Chevalier d'Harmental." Meantime the fertile Maquet produced "La Chambre d'Asile," "Deux Mots sur un Mur," "Le Beau d'Angennes," and "Madame de Limiers." For the third time, hazard united him with Dumas in "Antony," and then was established on a grand scale that intellectual alliance to which the world owes the most brilliant romances of the century.

"Les Trois Mousquetaires;" "La Reine Margot;" "Une Fille du Régent;" "La Guerre des Femmes;" "Monte Christo" (pyramid of romance); (a) "Vingt Ans Après;" "La Dame de Monsoreau;" "Le Chevalier de Maison-Rouge;" "Les Quarante-Cinq;" "Les Mémoires d'un Médecin;" "La Tulipe Noire;" all these great stories were

(a) This phenomenon astounded rosy writers, and set them uttering, by way of solution, old wives' fables, that turned the wonder into an impossibility. The account the authors themselves gave was the only credible one. These works were flung off by even collaboration of two most inventive and rapid writers. Some of the work was written in almost less time than a single hand could have transcribed it. I believe they still show at Trouville, in a fisherman's cottage, the chamber and table where the pair wrote the first four volumes of "Monte Christo" in sixteen days.

poured upon the public with a rapidity that has scarce a parallel in the history of letters.

Protected by a copyright law, *which is no stricter than ours, but is enforced by loyal and able tribunals that rise to the moral and intellectual level of the law,* the collaborateurs placed most of these great stories on the stage, and reaped a double harvest (a) of glory and profit.

Alas ! another trial was in store for him who had fought up so bravely.

Dumas, if I understand it rightly, used to treat with the publishers and managers, and settle with his collaborateur. Dumas fell into arrears with him, arrears which, if his heart alone had been to be consulted, would have been paid to the centime ; but unfortunately he had other creditors, who interposed with legal powers.

In short, the situation was so desperate, that Maquet had no course open but to withdraw from the connection ; he did so, leaving one hundred and thirty thousand francs behind him ; say £ 5,200.

Do you know what a loss in four figures means when it falls upon an *author* ?

It means — “ Begin the world again ! ”

Many have lost heart, and thrown themselves away, or at least have flung up in despair the great and hard game of literature, and taken to the little and easy one, on a less blow than this.

But this was a steel pen : not a goose-quill.

At thirty-eight years of age he began a fresh career. In 1851 he produced, with Monsieur Jules Lacroix, the poetic drama, “ Valeria,” (b) and by himself the fine drama of “ Château Grantier.”

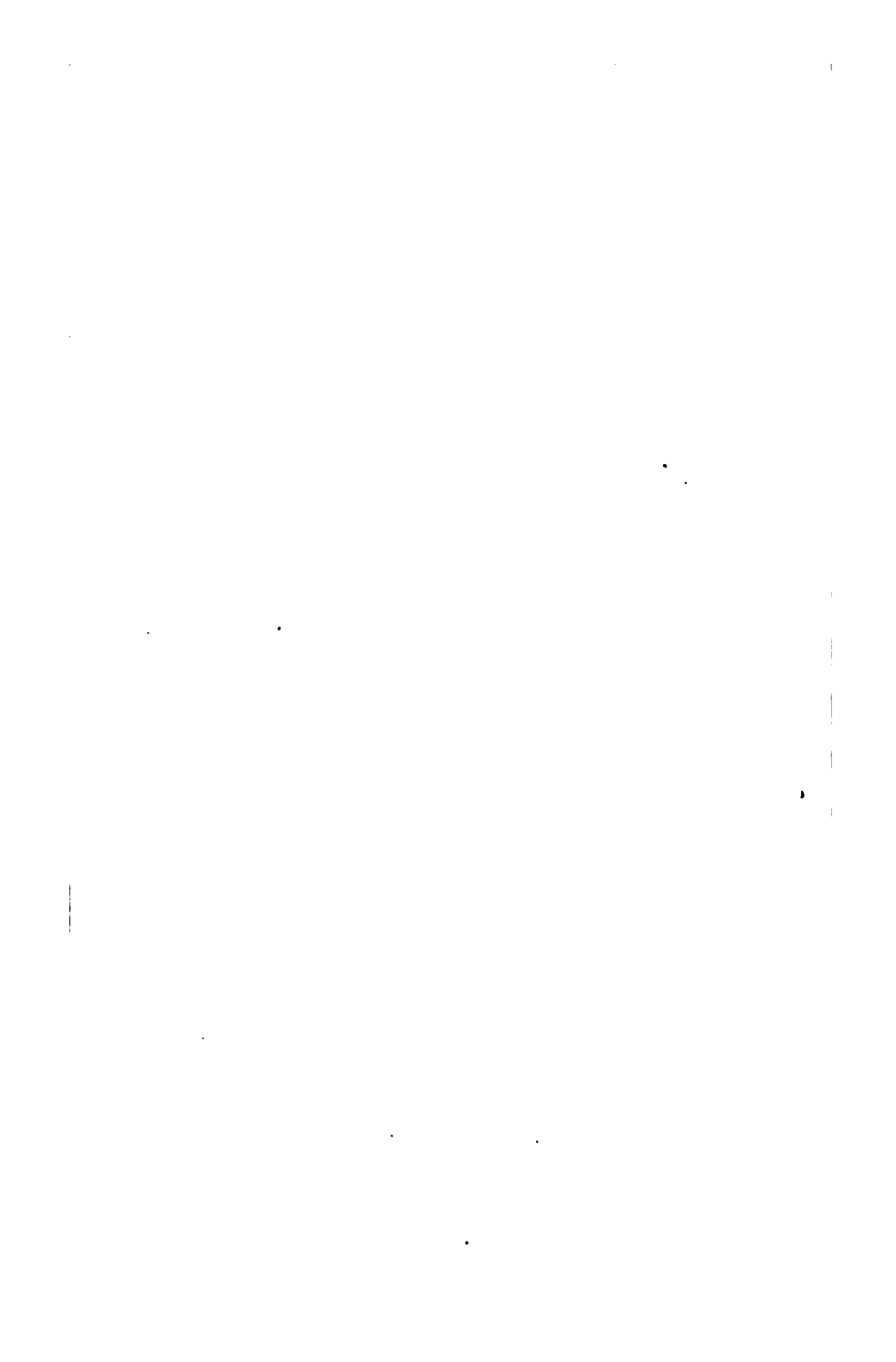
Such was the character, and such had been the life or campaign of the writer with whom “ La perfide Albion,” in

(a) Had they been English dramatists, some heartless and unprincipled vagabond would have swindled them out of that right in every instance : as Mr. Dickens, Sir E. Bulwer, and other masters have been pillaged, and as Messrs. Shepherd and Creswick, of the Surrey Theatre, and Mr. Conquest of the Grecian, have robbed me of my dramatic property in “ It is Never too late to Mend.”

(b) This play met with singular success in London ; was played four times in succession at the St. James's Theatre, in July, 1851. It is the play in which Mademoiselle Rachel personated two sisters, a queen and a courtesan.



A. MAQUET.



my person, now sought an interview, to treat for "Le Château de Grantier."

I was received by Monsieur Maquet at his house near the Boulevard du Temple.

I had to open the conference. I acknowledged the obligations of the English theatre to French authors, and expressed myself willing and even desirous to inaugurate that fairer interchange, which the new treaty rendered possible, and proper.

My sentiments have not varied an iota since that day, and what I said to Maquet in vile French, I have said over and over again to my own countrymen in some of the best English going; I mean by the best, the plainest.

Yet not one of my countrymen has shown one symptom of understanding me. But this Frenchman understood me "à demi mot." He approved, but was not in the least surprised at my sentiments, and we went to business.

I made him two proposals; half the English proceeds of my version of "Le Château Grantier," or a sum down and a per centage on my receipts after reimbursement of that sum. He chose the latter proposition.

Here some delicate female, or some canting pettifogger (for to rob an author the extremes of nature will meet), cries out, "How disgusting! how vulgar! two poesy-gilt vapours chaffering for a glorious production of the mind!"

Would it have been less vulgar to steal it than to buy it?

In commerce international, especially literary, common honesty is too rare to be vulgar.

* "Grattez un romanesque, vous trouverez un coquin!" *

However, there was mighty little chaffering in this case.

The writers of fiction, I mean of that kind, in which you can tell by the language whether it is a countess speaking or a washerwoman, have a great intellectual gift, the power of putting themselves in another's place; and nothing facilitates equity, conciliates jarring interests, and puts business on rails, like this single talent. I went to Maquet, because I had said to myself, "If you had written 'Le Château Grantier,' would you prefer to sell it, or be robbed of it?" And he was not behind me in talent, as you may suppose: he put himself in my place.

"We will attach a clause to this agreement," said he, "to

the effect that, should no English theatre play the piece in two years from this date, half the sum you pay me now shall be returned to you."

I said, "I thought there was no necessity for such a clause; I had friends in management, and relied on the merit of the piece." But the older writer insisted on giving me the benefit of his experience.

"The drama is remarkably successful here," said he, and, I venture to think, might be so in England, as it is founded upon nature and not upon manners; but managers are sometimes capricious, sometimes mistaken." And he added the clause.

The next day I paid him the sum proposed, — forty pounds.

On receiving it he once more put himself in my place.

"Had you not better send me this from England?" said he. "Paris offers many pleasures to a stranger, and I should be sorry to curtail yours."

I appreciated the offer, but insisted on completing the business then and there. To tell the honest truth, in those days I had not always forty pounds in my pocket, and, if I had spent it in Paris, might not have found it waiting for me in London.

There were passages in "Le Château Grantier" not playable in England. I had to write an original act, and to reconstruct, condense, and alter, two of the French acts.

The writers of my own country were now to be considered: lest, therefore, any other adapter should set to work upon the "Château," I wrote, while my adaptation was in progress, to an agent in London, and he advertised in the "Times" that the drama had been made English property under the treaty.

I did not myself return home until the spring; nor did I see the English papers during my absence. What follows is the result of recent researches, and may give a temporary pleasure to those readers, who care for the honour of the country even in so low a matter as the fine arts.

Every great act of national probity and long-sighted policy hurts a clique or two, or seems to hurt them (*a*), and their

(*a*) Sometimes even these cliques find out it only thwarted their short-sighted views of interest, not their real and permanent interest.

organs in the press resist the public good with more zeal than blushes.

Yet this treaty, though it met with some open dissentients in the German, Belgian, and Italian papers, encountered none in the English press, at all events at this period. My myrmidons and I have searched the files too closely to be mistaken. We have detected a dead ignoble silence in the more pompous and sordid pretenders to literature; but the weeklies and the journals do not share their want of sympathy with the immortal part of letters. Many of these speak out, and all that do speak support the treaty; and on grounds, and in terms that do them honour.

Some of these prints are my personal enemies; heaven knows why; I don't; and I am sure they don't. However, it will give me more real pleasure to be just to them than they will ever derive from being unjust to me.

The sincere inquirer into our national sentiments, as distinct from those of unpatriotic cliques, should begin by reading Lord Campbell's noble judgment, delivered in *Boosey v. Jefferys* this very year, 1851, and the comments of the press.

Lord Campbell's judgment, so favourable to foreigners, was acquiesced in by all those able judges that sat with him in this case, viz., Patteson, Maule, Coleridge, Cresswell, and Talfourd; to whom, and to the memories of such of them as have since joined "the company of just men made perfect," be honour in this and every land where "stranger" is a sacred name, and justice is even handed between man and man, as well as between native and native.

Besides the cotemporaneous comments on *Boosey v. Jefferys*, I have discovered several notices on international copyright scattered about the period of the treaty. As I have not hunted *ex parte*, but to learn the truth; and as the following are all the notices I have fallen in with, I feel quite sure we have here the voice of the daily and weekly press upon the general question:—

"The Examiner," 1851:—Nov. 29. 1852:—Jan. 24; Sept. 4; Oct. 30.

"The Leader," 1851:—Nov. 15; Nov. 29.

"Sunday Times," Dec. 7, 1851.

"The Era," Dec. 7, 1851.

"The Critic," March 15, 1851; Feb. 2, 1852.

"The Times," 1851:—Nov. 19, page 5, column 6; Nov.

26, page 4, column 3 ; item, page 8, column 6 ; Dec. 1, page 4, column 6.

"The Illustrated London News," 1851 : — May 24.

"The Literary Gazette," 1851 : — May 24 ; July 5 ; Nov. 15 ; Nov. 22 ; Dec. 13. [The last three are not in your Index, "Literary Gazette."]

"The Athenæum," 1851 : — Jan. 18 ; March 15 and 29 ; June 7 ; Aug. 2 ; Sept. 20 ; Nov. 22.

"The Art Journal," Sept. 1851 ; Nov. 1851.

"The New York Literary World," cited by "Critic," March 1851.

"The Edinburgh Review," not a word. "The Christian Observer," 0. "The Dublin Review," 0. "The British Quarterly," 0. "The London and Westminster," 0. "The Dublin University," 0. "Blackwood's Magazine," 0. "Fraser's Magazine," 0. "New Monthly Magazine," 0. "North British," 0. "Eclectic Review," 0. "The Quarterly Review," 0. A bead-roll of empty skulls.

"THE LITERARY GAZETTE,"

Nov. 15, 1851, was the first to announce the treaty in England, and published a short summary of its five main articles : observed that —

"This is the first time England and France have entered into such a treaty, and that the best thanks of both nations are due to the governments of both nations for having, in spite of many obstacles, concluded it : hopes that Belgium and the United States will follow so good an example, and reminds them they are now in a minority of two : declares it to be for the advantage, both of authors and publishers. 'But the parties who will be principally affected will be dramatists and translators : henceforth they must pay a toll to the authors whose works they take. *En revanche*, their translations will be protected. To be sure, dramatic translators and managers will perhaps grumble at the toll, seeing that the protection will scarcely be worth a straw, as the same piece is seldom produced at two (a) theatres. But really it is but simple justice they should give the Frenchmen, whose pieces they borrow, a portion of their gains.'"

(a) Quite a mistake. The same piece is *invariably* produced at many houses, if it *draws money* at one ; and if it does not, it is no more worth stealing than buying ; the author's fee being a mere drop of water in the nightly expenses of an English theatre.

Dec. 13. Prints a letter from Cologne, of date Dec. 10, by an impartial observer of piracy, and what it ends in.

This is a piece of legal evidence, furnished not by a man with a theory, but by a mere gossiping observer of things as they are. In literary researches it is not every day one can fall in with evidence so pure.

"The news of a literary convention between England and France, which reached our newspapers first through your journal, made a strong impression. They (the Prussian publishers) cast their longing eyes at the translation clause. And in justice it cannot be denied that translations from English books have become a nuisance to all parties concerned. I know this sounds strange; (a) but, if you have patience for a short explanation, you will readily assent to my *pronunciamento*.

"About thirty years ago the first translations from English were brought to the German market. The Waverley Novels were extensively circulated, and read with avidity by all classes. Next came Bulwer, and after him Dickens, and other writers. Rival editions of the same works sprang up by the half-dozen; the profits decreased, and the publishers were obliged to cut down the pay of the translators. I know that a translation-monger at Grimm pays about 6*l*. for a three-volume novel.

"These works, got up in a hurry, and printed with bad type on wretched paper, are completely flooding the market; and, as they are much cheaper than original works, they are a serious obstacle to our national literature. Thus much for our share in the miseries of free trade (b) in translations.

"Now for yours. There are able men in Germany, who, were it made worth their while, could and would put the master-works of your novelists and historians into a decent German garb. But under the present system these men are elbowed out of the field. The worst is, the publishers are killing one another."

He then shows that they are beginning to be afraid to lay out their money in translation, since, if successful, half a dozen other publishers come out with rival translations, and tear the speculation to rags.

(a) Not to me, my naïve friend, nor to any man who has really studied copyright and piracy.

(b) This is a foolish and inapplicable phrase. Free trade is free buying and selling, not free stealing.

The English don't steal the Swedish grower's corn, any more than they did before free trade. So opposite are the two ideas, that, in the very treaty which gives the Frenchman intellectual property in England, you will find preparations made to lighten the Custom-house dues on French books. *Vide* 15th Victoria, chap. 12, sec. 12.

The letter ends with these words —

"Hence it is that some of your best works remain untranslated."

[A century of cant smashed by this line.]

"ATHENÆUM."

Aug. 2, 1851 : —

"M. de Lamartine, convinced that the protection of literary property, both nationally and internationally, is a most legitimate and desirable object, makes an appeal to English honour and honesty against any piracy of his 'History of the Restoration.'

"When questions of this kind are before us, it is never unreasonable, even at the price of repetition, to refer to the noble attitude taken by the publishers of Paris, when they proposed to disregard the power an unfair law placed in their hands, of pirating foreign books."

The reviewer then expresses his hope, for the credit of English business, that no London publisher will pirate M. Lamartine's work.

Sept. 20 : —

"It is with great regret we hear of the complaints made by the 'Cercle de la Librairie' against the booksellers of England. The 'Cercle,' we are told, was desirous of delegating some of its members to concert the conditions of this question with the principal publishers of London; but Monsieur Pagnerre, its president, found the English publishers more or less indifferent, excepting some of them to the question as it regards America. 'To the moral bearings of the question,' says our informant, 'they appeared tolerably callous.'"

Nov. 22. Four columns on the treaty.

"By the fourth article, dramatic authors obtain similar rights; but, to make his reservation legal, the author is bound to produce the translation of his work within three months of the date of its registry. This is one of the ticklish points of the convention; the Paris theatre standing in much the same relation to the London playwright as the English author does to the reading public of America, or the French author to the Berliners.

"In case of reclamation, it is provided that the question, whether the reproduction of a dramatic work at a foreign theatre is an imitation or a piracy, shall be decided by the legal tribunals; a point that will, we suspect, often present phases of extreme difficulty to the pundits of the bench."

Noticing the advance of international morality, the article states that neither American authors, nor American publishers in general, share the dishonesty of American statesmen towards foreign authors.

A GOLDEN ANECDOTE.

"A short time ago, a French dramatist having vainly attempted to get a seat at a Belgian theatre (*a*), where one of his plays was attracting crowds, requested to speak to the manager; and mentioned his name, never doubting that his being the author of the piece about to be acted would secure his admission to the house."

"Very likely," was the cynical reply, "but we know nothing of authors here."

[I gather that the author had to pay the thief for a sight of his work being stolen, and sold to the public. I have done the same thing in England, three distinct times; viz., paid the pirate for a sight of the theft of my property, and its destruction too.]

The article concludes, by stating that one of the principal pirates and senators of Brussels had just laid a balance-sheet before his accomplices, that proved piracy was not thriving.

"THE CRITIC,"

March 15, 1851, cites with approval a column from "The New York Literary World," in which that paper warmly advocates copyright between the United States and Great Britain, and tells us that American authors are unanimous in its favour, and have urged it again and again in book, pamphlet, and newspaper, and by memorial and petition: also that a club had been organized with this view, with Mr. Bryant for its president.

The American article concludes by urging the friends of copyright to memorialize the Cabinet in Washington and

(*a*) I wish somebody would raise Canting Camden from the grave and rub his nose into this piece of evidence. Canting Camden was the great apostle of "Iniquity to Authors" in the last century. He held, *inter alia*, that the more an author should be outlawed, and robbed of the proceeds of his labour, the more he would be *revered*.

Downing Street cotemporaneously to propose an international treaty to the legislatures of each country.

The "Critic," Feb. 2, 1852, commenting on the provisions of the treaty, and referring to a previous notice, says : —

"It will be seen they fully support our argument for the immediate formation of an Authors' and Publishers' Protection Society."

"Rem acu tetigit." [Ten years' experience has shown me the sagacity of "The Critic's" remark.]

"EXAMINER."

Nov. 29, 1851 : —

"The distinction between what is piracy, and what is adaptation or imitation, becomes highly important. The treaty says that legislation and judicial decision in each country must determine it; but it will never do to have the legislation on such subjects differ in the two countries.

"The great result to be kept in view by all men of all countries, who have an interest in this question (and what civilized or educated man has not?), is the identity and universality of one law in so important (a) a matter."

"THE ILLUSTRATED LONDON NEWS."

Weekly circulation 120,000 copies, at 6d. Has an admirable leader on international copyright, May 24, 1851 : —

"A great deal yet remains to be done. There is no concert among the nations of the world to do justice to each other, and to the genius which is the advantage and the ornament of them all."

The paper then complains of the iniquity perpetrated on the French authors throughout Europe (France excepted) by the Belgian press, and reproaches the three greatest nations in the world with their want of large policy.

"Whatever has been done has been local and partial. But

(a) Bravo! "Examiner." There are just two men in this island that have seen that; you and I. And much I fear no British statesman will disturb our monopoly of this idea, till another fifty years have been wasted fiddle-faddling with piracy; oiling the hand to hold the eel of eels.

good books are of no country ; they are the heritage of the world, and the world would enjoy more of this valuable commodity if it would recognize the claims of those who write them, and foster genius instead of allowing it to be crushed.

"But at this period in the history of nations, new and generous ideas have taken root, and perhaps it is not too much to hope that, amid other civilizing and ennobling results of the industrial gathering in 1851, an international copyright may be included."

Reflecting on the iniquitous partiality in the interpretation of law by some of our courts, which iniquity had just been knocked on the head by Lord Campbell and the judges of the Exchequer Chamber, the article puts the logic of larceny very neatly.

"An English book was treated by the Courts like any other commodity produced by skill or acquired by industry, and so was a foreigner's watch : but not a foreigner's book."

"THE TIMES."

Nov. 26. A leader.

"The most hopeless subject of negotiation with the governments of other countries has long appeared to be an international copyright law. Intellectual produce has been the only description of goods excluded from equitable conditions of exchange. . . . The various governments of Europe, and the United States of America, have from time immemorial virtually declared that a work of literature or art, the property of a single individual, was a fair mark for piracy and theft. Genius has been outlawed. The property it should have owned, whether in its most splendid or most trivial productions, has, by the comity of nations, been treated in the same way as the goods of a convicted felon (a). All this has been done in the broad light of day, under the sanction of the most distinguished statesmen of the most civilized nations of the world."

After giving examples of French, English, and American genius pillaged, the writer points out a peculiar cruelty.

"Still worse, copies might be, and actually were, multiplied at a cheap rate in Brussels, and disseminated over the whole Continent. . . . Nor in fairness can the reprehension be confined to the leading statesmen of the time : the real blame lay with the great bulk of the population, whether in Europe or America.

(a) This is eloquent, but it is the simple truth.

There has long existed a profound immorality of thought with regard to the productions of genius. Men have said: 'It is our interest (a) to have the readiest means of access to the works of literary men. Their labours cannot be the subject of property any more than the wild fowls of the air, etc., etc.'

"How shortsighted the policy has been the example of Belgium will best evince. The effect of the habitual piracy practised by the Brussels publishers has simply been the extinction of original literary genius throughout Belgium.

"We are glad to be enabled to state that a treaty for the suppression of this most disgraceful system has at length been signed between England and France. It is stated, that if the provisions are not more complete, that, if they are not framed with a retro-active as well as a prospective effect, the fault does not lie at the door of the French government.

"The concluding article, of principal importance, puts dramatic productions on the same footing as other literary works," etc., etc., etc.

Dec. 1:—

"At Paris the recently concluded literary convention has been submitted to the National Assembly, and has afforded the highest satisfaction." (b)

Thus the English press nailed its colours to the mast, — the colours of international probity and standing policy, — and was writing honestly in the spirit of the treaty, while I, uninfluenced by their remarks, which I never saw till last year, was acting honestly in the spirit of the treaty. The coincidence is worth something in the argument.

On my return to England, in the spring, I found to my great sorrow that the English playwrights generally were little disposed to sympathize with my views. One or two good-humoured sneers even reached me. The theory in this quarter seemed to be, that in all matters connected with such a dunghill as the English theatre, statesmanship is vain, and —

"Honour but an itch in youthful blood
For doing acts extravagantly good."

(a) As if it was not as much their *immediate interest* (though not lasting policy) to steal every cow off every common, and every shirt off every line out of the owner's sight and power to protect it.

(b) This proves that the French government did not understand that the main French literary export was still to be stolen. They would not have signed it.

Such sentiments, even if they were not degrading, would be emetics to my understanding. For what mortal thing would ever have been improved by man if its then low state had been assumed to be its highest possible state?

On the other hand months passed, and "Le Château Grantier" was respected in England as property.

At this period then the balance fluctuated. The dramatic clauses of the treaty clearly admitted two interpretations; the one honourable, and consistent with the spirit of the whole treaty, the other dishonourable, and self-contradictory, and opposite to the whole spirit and intention of the treaty, as will be shown anon. The balance trembled, and at this moment, if I had been backed by a dozen honest men, ay, even by half as many as could not be found in Sodom, the British escutcheon would have escaped a lamentable stain, and I a vast loss of time and money, and much suffering and care, and you this cursed autobiography, which chains me to a disagreeable theme, when I ought to be away singing brave men and lovely women.

At this crisis, when everything thus combined to give double importance to him, a new personage stepped on the scene between the two nations, — Mr. Charles Matthews.

Mr. Charles Matthews was at this time the manager of a first-class theatre. He could insure the immediate performance of any piece he should treat for with France. I could not. He was therefore on this, and many other accounts, as powerful in this question as I was weak. He had only to oppose international integrity, to be well supported; he had only to give his loyal adhesion to the treaty, to be well supported. Other managers would have followed him, and a good custom once founded would have turned the balanced scale the right way for ever.

Mr. Matthews then came forward between two great nations with a letter, or pamphlet; and it was *addressed to the French authors*; which promised well; for we English have a sense of shame (often where we have no other virtue), and seldom invite the approval of those we mean to defraud.

It is a sprightly tract, sensible here and there, downright funny everywhere, and supernaturally illogical.

In paragraph 1 he is a boxer, and offers the French authors his hand, preparatory to a combat with them.

In paragraph 2 he disowns for his French style all competition with the French Academy, but promises to be intelligible.

In paragraph 3, forgetting he is a prize-fighter, courteous but hostile, he is a "weasel: a penitent weasel, who has long sucked the eggs of Gallic nightingales."

... "And I am here to offer you my congratulations on your having at last asserted your rights in the British dominions." ...

Ere he gets to the end of this paragraph the penitent weasel, late pugilist, is "an old fox *feigning* penitence, and a wish to amend his ways." (a).

The character of their correspondent being thus settled as clearly as three contradictions, of equal authority, can settle it, Mr. Matthews goes to work, and shows the French authors, —

1st. That England is a place not worth their attention as a source of income: that there are twenty-three theatres in London alone; but that out of these only three play French pieces. His way of proving this, not by a list of their pieces, but by *à priori* reasoning, founded on comic sketches of the *class* of piece that is popular at those respective theatres, is unique in drollery as well as reasoning. It is Harlequin Thomas Aquinas.

The broad fact, that the English theatre owes little to the French, being thus driven, he rivets it by particulars. In 1851, says he, the London theatres took but eight pieces out of two hundred and sixty-three produced in Paris. These eight he enumerates. This startling fact, he feels, demands a solution. He furnishes an obliging one, —

The general indecency and folly of French pieces.

"We used to steal them in days gone by, and would steal them now," says he, "but they are no longer worth stealing, they falsify history so; besides, they offend chastity:" and on this our Proteus turns Cato censor (b), and chides the French authors on moral grounds for not making their plays

(a) This last statement (making allowance for metaphor) I have found better borne out by legal evidence than any other fact advanced in this pamphlet, not excepting the statistics.

(b) Or Juvenal; for, in his ardour for propriety, he says one or two things that are none too fit for little girls.

less inaccurate, more moral, more fit for a thief's use. Off at a tangent on another line, and points out the innumerable and insuperable difficulties that must prevent an English manager from *buying* a French piece of its author. He assumes, without saying why, that the French dramatist would not, in return for the English purchaser's money, give him a discretionary right to adapt his piece to English audiences, but would insist on its being literally translated, — and damned: in other words, he assumes as self-evident, that his superiors in intelligence must be egotistical fools (a common hallucination). He then points out the inefficiency of the treaty. The manager who should *buy* a piece would get nothing for his money but a lawsuit; and what manager would buy on such terms when he can steal on the same?

He then is suddenly seized with a fraternal regard for the reputation of his milch cows, and warns them, with visible anxiety, against imitating Monsieur Auguste Maquet, who has been so injudicious as to *sell* "Le Château de Grantier" to an English writer. Who the purchaser is Mr. Matthews has been unable to discover; and, therefore, since he knows nothing about him, can tell the French authors all about him. It is some rich ninny, who is going to buy up all the French pieces, and resell them at a profit. In such hands, he tells them, they might make money; but would lose reputation. "Now don't set your hearts upon mere money!" "establish a tariff, make acquaintance with our best authors (singularly enough, that phrase always means, in this pamphlet, Mr. Nemo, Mr. Outis, Mr. Nescioquis, Mr. Incognitus, Mr. and Mrs. Anonymuncula, and Mr. Matthews), our best theatres, and actors, and think a little of your reputation before you think too much of emolument" (a). By this course, he hints, they will attain immediate glory; and profit at some period *indefinitely remote*. When he is dead, eh?

"Après moi la probité!"

And now, considering that this composition is addressed to the French authors by an influential Englishman in a strain which, however impertinent, coming as it does from a mere creature of their talent, is not unfriendly, the reader begins to be impatient to know what is that precise thing which Mr.

(a) It is not love of money that inspires this sort of advice; oh dear, no.

Matthews, as manager of a theatre, will do for his friends and benefactors over the water, in return for all they have done for him in years past, and all he now proposes to them to forego in favour of him and his clique the best authors unknown. It is a man of business who writes, and having told his correspondents what he won't do, and what he wishes them not to do, it is now for him to say what he *will* do in return.

This reasonable expectation he meets as Johnny Cope welcomed the Highlanders, —

"Gentlemen, I have the honour of wishing you a very good morning.

"CHARLES J. MATTHEWS."

And exit on the light fantastic toe.

OPINIONS OF THE PRESS.

The "Era," July 25, 1852, approves in general, and adopts the conclusions; promises a detailed critique next week, and forgets all about it. Very excusable: in our home news "truditur fur fure."

"Sunday Times" approves it warmly, but points out the quibble about the eight pieces, and the slippery use made of that quibble in the argument.

"Times," in a side article of two columns, halts between two opinions, and does a bit of "Gratiano;" says "an infinite deal of nothing" — in good English.

"Morning Herald" glum over it. Complains in general terms of its flippancy and mendacity; and says seriously, that its humour is not the humour of Sidney Smith. It would be odd if it was, considering that Sidney Smith was the wisest and most far-sighted Englishman of his day, and one of the honestest and clearest headed, as well as droll-est.

"Morning Chronicle," July 27, in a long article cuts it to ribands, so far as assertion can mangle assertion. "Chronicle" says as much as that every statement in the pamphlet is either a falsehood or a quibble; and, *inter alia*, declares that all the English theatres, without exception, are fed by French brains, more or less: reminds Mr. Matthews that no Englishman has benefited by French talent as he has, etc., etc.

"Morning Post," after paying a just tribute to the writer's easy, *débonnaire*, and rattling style, describes the pamphlet as written with two main views.

"1st. To disabuse the dramatic authors of France of the absurd notion that every piece produced at the London theatres is of Gallic origin.

"2ndly. To incite them to the production of a wittier and less licentious class of plays."

The "Post" then goes through Mr. Matthews' statements and opinions, accepting the one and indorsing the other.

Were I writing for Mr. J. S. Mill and Co., instead of for the public, it would matter little to my argument at its present stage whether Mr. Matthews is correct in his facts or not. Equity and honour are bound to resist a small temptation as well as a large one. Say that we only take eight French plays per annum; what follows? Why, then the treaty, loyally fulfilled, will only take a small sum out of the nation,—say 240*l*. Is not the national honour worth 240*l*. per annum? We let foreign artists of a lower class (*a*) than the French authors take a hundred thousand pounds out of the country every year;* in our physical exports and imports we deal more on the square with every nation than it deals with us;* and between the two shall we stick in one nasty little lump of incongruous improbity to tarnish for a few pounds a commercial escutcheon, for which we have sacrificed millions? to steal eight miserable plays in the teeth of a national treaty, under which they can be bought for 240*l*., or less? Is this the sort of national dishonesty to propose to a keen people, that knows the money value of character?

We are merchants, not cleptomaniacs.

But weak as Mr. Matthews's reasoning seems to me, it proved strong enough for his readers. From the date of this publication the dramatic part of the treaty declined gradually but steadily into contempt, till in practice it became a mere nullity. The journalists of the better class who had nailed their colours so nobly to the mast (*vide* p. 27 – 34), now ran down into the hold, leaving their colours nailed to the mast, and me fighting under them alone. Ay, fighting alone under their colours for years and years. What wonder the battle was lost?

(a) Italian singers, French actors and dancers, German flute-players, and fiddlers from all the ends of the earth.

It would be misplaced arrogance in me to slight so successful a piece of ratiocination, logical or not; we will therefore examine the facts, the more so as the second division of my subject requires that they should, if possible, be ascertained and settled now. To perfect so comprehensive an inquiry I must ask some assistance. But at least I can put the investigation on a basis instead of letting it dance in the clouds.

It was asserted by Mr. Matthews and others, that the English theatres were very little indebted to French authors at the date of his pamphlet. The exact contrary was asserted by the "Chronicle," and others. But we are not at the mercy of assertions: there is legal evidence to be got, — the play-bills of the period.

And here my sincere thanks are due to Mr. Croker, for the zeal and care with which he has compiled the play-bills of 1851, 1852, and 1853, in his "Dramatic Register" (a). But for that zeal and care I might now be spending three months' hard work collecting the legal evidence his industry and fidelity have placed so generously at the dramatic historian's disposal.

Mr. Croker's plan is to notice every important change in the play-bill of the theatre whose performances he is noting. You are to understand, therefore, that between the dates of his respective entries the new pieces he has already named were performed; in most cases, the very pieces last entered; the London theatres varying their week's bill but little as a general rule. I shall strike out the benefit nights, because these are always exceptional performances with which we have nothing to do. It is I who assign each play to its native land, where I can; and where I can't without assistance, I leave it open. His facts are sacred; where I make bold to word him for sake of brevity, etc., I put "C. R." The type of these pages will be kept standing for any alterations or information the public may honour me with, and such will be gratefully received.

After playing upon our two great Italian opera houses; of which No. 2, he says, was started because there were not amateurs enough in the town to fill No. 1. Mr. Matthews comes to the theatres; and my advice to the British critic, and the French dramatist, is to enjoy his fun as I do, and keep a sharp eye on the legal evidence.

(a) Beware of confounding this careful compilation with a late production which resembles it in title only.

MR. MATTHEWS.

"DRURY LANE,

the other ex-National house, is, alas! more like an omnibus than a theatre,—a huge omnibus running short stages at a very low price, but with plenty of noise: changing its coachman every other day, and, in order to entice the mob (though without succeeding in the attempt), printing the slang of the cads upon the way-bill. Authors have but little to hope for here. The present manager, poet-librettist, dreams of nothing but English operas, marble halls, and ballets. Drop a tear, gentlemen, and pass on in silence. It is the mausoleum of Shakespeares."

"THE OLYMPIC

is a respectably-conducted theatre, but its low prices of admission cannot allow any great extravagance in authorship. They generally play there old standard English comedies and plays, cheap anonymous translations from the French, and original pieces by second and third class English authors. You may glean slightly in this little field, gentlemen, I think, by wheedling the manager-actor, and coaxing him adroitly on his weak side,—that of his sons."

"THE STRAND

is a miniature Olympic. If Drury Lane is an omnibus, the Strand can only be a cab. The house is so small, and the prices so low, that I can scarcely make out how it can be worth any one's while to open the doors. At any rate, I should say, from this homeopathic theatre authors can hope to receive but infinitesimal globules of tin."

THE DRAMATIC REGISTER.

DRURY LANE.

Jan. 16. Old Love and the New (an original English comedy). Jan. 27. The Cad's Daughter (French). Feb. 19. Azazel (French "L'enfant prodigue"). A very successful piece; C. R. March 17. A Morning Call (French). March 29. Queen of Spades (French). April 21. The Robbers (German). May 6. School for Scandal (old English). June 9. Ingomar (from Germany, who took it from France). [From 28 July to 25 Oct. "Quadrupedante putrem sonitu quatit ungula arenam." The actors and their riders American and French. C. R.] Dec. 26. Fazio (old English). This time the foot is on the other leg for once. Fazio has been taken by Dumas and brought out in France under the title of L'Alchymiste. C. R. Dec. 27. The Belle's Stratagem (old English) and "The Young Couple" (French, I think).

OLYMPIC.

Jan. 13. All that Glitters is not Gold (half French, half English). Feb. 17. Sextus the Fifth (French). Feb. 24. That Odious Captain Cutter (?). March 17. Charles King (French). April 21. Sir Roger de Coverley (English). May 7. Ladies' Battle (French). The Fast Coach (French), and The Devil and Dr. Faustus (?). June 23. Diogenes and his Lantern (English). June 30. The Fire Eater (French). July 15. Castle of Valenza (French). August 11. Angelo (French). August 25. A Night's Adventure (French). Sept. 8. I've Eaten my Friend (French). Sept. 29. The Demon Gift (old ?). Oct. 13. Caught in his own Trap (French) and Azazel (French). Nov. Several plays of Shakespeare—As you like it, Merchant of Venice, Romeo and Juliet, with one new piece, Original Bloomers (French). Dec. 8. Lucille (old French) and Faint Heart Never Won Fair Lady (old French). Dec. 26. The Road to Ruin (60 years old, English).

THE STRAND.

Summary—C. R.

Original plays and burlesques produced at this theatre in 1851:—The Exposition, Taking the Census, Godiva, A Cheap Excursion, The Alderman's Gown, Thetis and Pelous, The Willow-pattern Plate. (7.)

Of doubtful origin:—Living in Glass Houses, Village Nightingale, Dearest Anna Maria, A Squib for the 5th of November, Counter Attraction. (5.)

Piracies on English authors:—(1), viz., Breakfast for Two (a piratical version of an old English farce, Raising the Wind).

Plays, etc., from the French:—Kensington Gardens, The Poor Relation, My Wife's Future Husband, The Shot Tower, the Hopeless Passion, A Figure of Fun, The Artist's Wife, Circumstantial Evidence, The Twelve Labours of Hercules, The Bloomer Costume. (10.)

Large sums of money are made in small theatres: had been made in the Strand before 1851, and have been made since. Mr. Hammond cleared four thousand pounds there in one year by a single piece, a piratical version of one of Mr. Dickens's novels. The profits of the Strand, in 1859, are reported to have been about eight thousand pounds! the highest theatrical balance-sheet in England, and perhaps in the world. — C. R.

"THE SURREY.

Well conducted by its present managers, the house is generally crowded. They play there the old standard English tragedies and plays — sometimes even those of Shakespeare — stirring original melodramas, spectacles, and pantomimes; but there is little or nothing to be expected from them for you, gentlemen. An occasional translation may be detected, but very rarely, and I recommend you not to count on them."

SURREY.

Jan. 20. Belphegor (French). Feb. 24. The World's Games (French, I think). March 17. Walthoeif (English). April 2. Hooker and Snooker (a piratical version of Box and Cox, which is French). April 21. The Czarina, or Ivan the Armourer. (This is Victor Hugo's Marie Tudor, come to England after a tour in Germany; a profitable one, no doubt, except to the author.) June 9. Roland the Rider (?). June 23. The Magic of Life (?). July 26. Orphan of Glencoe (English, I think). August 11. Left in a Cab (French). Sept. 22-Oct. 12. Italian opera set to English words. Oct. 13. The Two Bloomers (English, I think). Oct. 20. Dreaming and Waking (French). Nov. 3. Hernani (French) and Pride, or the Curse (?). Nov. 17. The Vegetarians (French). Dec. 1. Masaniello. Dec. 8. Macbeth. Dec. 26. Evadne (old. ?) and the Fantomime (English).

"ASTLEY'S

is a circus, where they play Battles of Waterloo, Wars in Afghanistan, Mazeppas, and equestrian spectacles together with scenes in the circle, feats of horsemanship, and tumbling in all its branches. You will at once see that there is more to be gained here by French acrobats than French authors. The ground is much too sandy for you to build your hopes upon; there is no field here for your ambition, unless your ambition happens to be what Shakespeare calls 'a vaulting one which overleaps itself,' — I mean the ambition of a double flip-flap."

ASTLEY'S.

April 21. Eleanor the Amazon (English). June 9. A Night in Persia (French). Mazeppa (an old piece which, I believe, like many others, came from England to England via France. Astley's constantly borrows pieces from the Cirque, and I think Mazeppa is one of these). Nov. 3. Azael (French). Dec. 26. Mr. and Mrs. Briggs (English).

"THE MARIONNETTES.

I don't include the Marionnettes, because the actors there are only made of wood; though I am bound to confess we have plenty of living ones who lack their wit and agility.

THE MARIONNETTES.

Le beau raisonnement! The actors are of wood, ergo, the pieces they play must be English; or is it implied that the wooden actors can write their own pieces, though actors whose heads only are wood cannot? The dolls were made in France, christened "Marionnettes" in France, and in London played adaptations from the French, just as Mr. Matthews himself was doing in his theatre at night while writing French talent down by day in this pamphlet. Why, the best of the writers for the Marionnettes, Mr. Hugo Vamp, publicly announced his pieces as "original translations;" a very fair slap at the pretensions of adapters. Jan. 12. The

Manager's Room (?), Bombastes Furioso (old ?). Jan. 26. Bottle Imp (German ?). Feb. 2. Arlechino Fortunato (Italian or French), Poll Practice (French). March 15. Swiss Cottage (French). March 22. Whose Wife is she ? (French). March 29. The Two Gregories (French). April 12. Now in Rehearsal (?) and Aladdin (old). April 26. The Happy Manager (? May 3. Arcadian Brothers (burlesque on Les Frères Corneille), etc., etc.

Mr. Matthews's merry account of Sadler's Wells was really not far from the mark. I find there, in 1851, only three pieces of French origin : — "Fortunio ;" "Beware of Man-traps ;" "His Head is in Peril." (The last a piracy on a plagiarism, "Your Life is in Danger.")

The Anglican character of the Marylebone Theatre is also rather exaggerated than falsified. I find, *inter alia*, three plays by Mr. Fitzball, which are probably English. But "The Surgeon of Paris" is French, I think. Moreover, as this class of theatre seldom prints its pieces, who can tell what they are? it takes a thief-taker, not a critic, to track them home. I am down upon one, though. "Lone Château," played June 23, is a piratical version of Mr. Oxenford's version of "Pauline ;" and "Show Folks," 7th July, is, I am told, taken from a version of a version of "English Exhibition," a French farce. Art has its infinitesimals as well as nature. What says the poet? —

"Smaller than mites, on mites they feed."

Mr. Matthews's best cards are the Queen's, which, in 1851, really did play some truly original trash; and the Victoria, which has always produced English pieces, in which a critic may discern more genuine talent than Mr. Matthews, whose dramatic sense is locked up in vaudeville, will allow.

"THE VICTORIA"

is a model house, the type of a school to which it gives its name. It is the incarnation of the English 'domestic drama,' or rather of the drama of English domesticities. There you will always find the truest pictures of virtue in rags, and vice in fine linen. There flourish the choicest specimens of all the crimes that make life hideous, — robbery, rape, murder, suicide. It is a country abounding in grand combats of four, — a region peopled with angelic maid-servants, comic housebreakers, heroic sailors, tyrannical masters,

THE VICTORIA.

Jan. 27. Belphegor (Paillasse). (Hallo! that is a bad start though, and I see they played it sixty nights). April 21. The Pauper of Lambeth (English). June 10. The Jew of Constantine (). June 23. The Druid's Oak (). July 7. Claude du Val (an old piece, I think). July 21. The Warrior Boy (English, Passion's Slave (French). August 4. The Lion King (?), Sept. 8. The Mendicant's Son () and The Bloomer's Bride (). Oct. 27. The Secret Foe (French). Nov. 3. Life of a Woman (French, I think). Nov. 10. Veteran Ashore (). Nov. 24. The Earl of Poverty. Dec. 15. Marmion.

poetical clodhoppers, and diabolical barons. The lower orders rush there in mobs, and in shirt-sleeves, applaud frantically, drink ginger-beer, munch apples, crack nuts, call the actors by their Christian names, and throw them orange-peel and apples by way of bouquets. Fly, gentlemen, this is no place for you,—you are only known here as frog-eating foreigners, whose armies are easily put to the rout by a couple of stage tars and a heroine with a horse-pistol. There's not the ghost of a chance for you. They live upon roast-beef and plum-pudding, and abominate French kickshaws."

I dare not hope that I have made no mistakes in this list; and the type shall be kept standing for correction and fresh information. Both will be gratefully received. Meantime, my friends over the water may rely on it I now give them a sound general impression of the business done in 1851, at our second and third class theatres. It is for them principally I go into these details, that they may not be humbugged under cover of statistics as well as pillaged under cover of a treaty.

And this brings me to another matter. Mr. Matthews has given an impression that, in 1851, the English theatres of all sorts produced but eight new adaptations from French pieces. "The Revue Cotemporaine" and others have so understood him. It is an impression which the preceding pages must have shaken. I really think one hundred and eighty would be nearer the mark, one year with another. Here, too, a sound general impression is all I can give: but that is more instructive than precise mendacity.

**"THE HAYMARKET, THE
LYCEUM, THE PRINCESS'S
AND THE ADELPHI,**

THE HAYMARKET THEATRE.

are the four theatres in my opinion from which you have most to expect, and towards which you will have to direct your attention: but as the Haymarket and the Adelphi are under one manager, these four can only be reckoned as three.

Jan. 1 to Feb. 3. Macready's farewells in old pieces. Feb. 4. Good for Nothing (French). Feb. 6. Presented at Court (French). March 3. Don César de Bazan (French). March 6. The Wife (old English). March 8. Othello. March 25. Tartuffe (French). March 27. Make the best of it (French). April 21. Arline (burlesque on the Bohemian Girl; English). May 3. Retired from Business (English). May 26. Crown Diamonds (old French). June 7. Good Night, Sir, Pleasant Dreams (French). June 18. The Cadi (French). June 23. John Dobbs (old French). June 24. Mr. Hackett's performances of Falstaff. July 1. Grimshaw, Bagshaw, and Bradshaw (French). July 7. Son and Stranger (German). August 13. The Queen of a Day (?). August 21. His First Champagne (old French). August 30. Tartuffe (French) and The Serious Family (French). Sept. 10. Grandmother Grizzle (French, but a free imitation). Oct. 11. La Sonnambula (Italian), Grandmother Grizzle (French), and Grimshaw, etc. (French). Oct. 14. Mrs. White (French), with Sonnambula, etc. Nov. 17. Charles the Second, (old French, I think,) the song of God Save the Queen (ah! that's English, (a) if you like,) Rough Diamond (French),

(a) This song has been claimed by Germans, and French. But there is not a particle of *evidence* in favour of any one but Henry Carey.

Grimshaw, Bagehaw, etc. (French). Nov. 18. The Ladies' Battle (French).
 Nov. 25. The Two Bonnycastles (French). Nov. 26. The Beggar's Opera (old
 English). Dec. 9. The Man of Law (French). Dec. 26. The Princess Ra-
 dant (burlesque. ?).

THE PRINCESS'S.

Feb. 17. Mr. Bartley's farewell in Falstaff. March 6. Love in a Maze (a maze
 of three French plays melted into one; sold to the theatre as original, I believe).
 March 17. Pauline (French). April 21. Alhambra (English). May 14.
 Apartments (French?). May 15. Prisoner of War (old English), etc. June 4.
 The Duke's Wager (French). June 16. First Night (French) with pieces named
 before. Sept. 13. Model of a Wife (French), etc. Oct. 17. Twelfth Night, A
 Model, Alhambra. (Theatre closed.) Nov. 22. Merry Wives of Windsor, To
 Parents and Guardians (English). Nov. 24—Dec. 30. Shakespeare and old
 English pieces, with Tender Precautions (a new farce, English, I think).

THE LYCEUM.

March 24. (Mr. Croker's first entry.) Cool as a Cucumber (English). April 21.
 Queen of the Frogs (French fairy tale dramatized). May 20. Only a Clod
 (French). June 4. Court Beauties (old French). Oct. 2. Game of Speculation
 (French) and, 184th time, King Charming (French story dramatized). I infer from
 this entry that King Charming was the "pièce de résistance" from Dec. 26, 1850,
 up to Game of Speculation. Dec. 15. Game of Speculation, with Forty and
 Fifty (French), and the Practical Man (English). Dec. 26. The Prince of Happy
 Land (French story dramatized), the scenery painted by Beverley.

THE ADELPHI.

Jan. 13. Belphegor (French). March 24. The Denounced (English). April 10.
 A London Fog (English). April 21. O'Flannigan and the Fairies (an old piece,
 rewritten by Mr. Boureicault ?). May 29. Good Night, Signor Pantaloon
 (French). July 17. Green Bushes (English, I think). Sept. 8. The Iron Mask
 (French). Sept. 23. Mr. Josh. Silsbee's performances in American pieces, viz.,
 The Forest Rose and the Yankee Ploughboy. (I don't know the origin of these
 pieces: they may be American; they are just as likely to be French.) Dec. 26.
 My Precious Betsy (French), Little Red Riding Hood (either German or English).

"The Morning Chronicle" complains that Mr. Matthews selected an exceptional year, in 1851. But this is unfair. If he had taken 1850, or 1849, somebody would have cried out, "why skip 1851?"

The thing that astonishes me is, how he could sit down in the spring of 1852, with his pockets full of money made out French skulls, and try to create a *general impression* that their pieces are too irrational and loose to be played in England, either with or without that alteration, abridgment, and discolouration, which adapters say are so difficult, and inventors and even impartial observers know to be so easy *compared with invention*. For what was the history of his

Curiously enough, though, even this is in one sense an adaptation. Henry Carey was a Jacobite, and wrote this song, words and music and all, in support of King James. He sang his composition, "God save Great James, our King," till the tide turned finally against the Stuarts; and then it turned to "Great George."

own theatre while he was penning these lines. From Christmas, 1851, to Easter, 1852, that theatre ran a singularly prosperous career on two French legs. "The Game of Speculation" (a close version of Mercadet, Balzac), and the "Prince of Happy Land" (a French fairy tale dramatized).

COMMENT OF THE "TIMES."

"The only pieces performed since Christmas were 'The Game of Speculation' and 'The Prince of Happy Land'; so that the bill was not changed for a period of three months, while the audience every night was most numerous. The fact is, we believe, without parallel in the annals of the modern drama." Cited by "Dramatic Register," 1852.

To be sure, on one of these nights, Mr. Feargus O'Connor, M. P., performed in the dress-boxes: kicked up a row there, and was carried off by the police. This interlude was certainly not French: it was Irish. But, not having been announced in the bills, it nowise affected the night's receipts. On Easter Monday, of this year, Mr. Matthews produced "A Chain of Events" ("La Dame de la Halle"), which was played, with short occasional breaks, owing to Madame Vestris's failing health, until 3rd June. The new farces in that month were "Taking by Storm" (French); "Family Jars" (French); and "Very Suspicious" (French). — "Dramatic Register," 1852.

On June 30, the Lyceum closed, and the manager sat down, jingling money out of French brains, to revile French dramatic invention, and disown our obligations to it in a town where seven theatres had just been selling, *at one and the same time*, one French play to their customers; and three more (his own being one of the three) had just been selling another.

"DRAMATIC REGISTER, 1852," page 55.

"It is rather curious that during May, most of the theatres, if they had not a version of the 'Corsican Brothers,' or a burlesque upon it, were playing a version of 'La Dame de la Halle.' Thus — Princess's, 'Corsican Brothers' (original version); Surrey, 'Corsican Brothers'; Haymarket, 'O Gemini' (burlesque 'Corsican Brothers'); Olympic, 'The Camberwell Brothers'; Marionette, 'The Arcadian Brothers'; Lyceum, 'A Chain of Events' ('La Dame de la Halle'); Adelphi, 'Queen of the Market' ('Dame de la Halle'). Strand, 'The Lost Husband' (Dame de

la Halle). At New York, 'The Coarse-haired Brothers' ('Corsican Brothers').

"N. B. — Many more than seven theatres played 'The Corsican Brothers.' But these coteremporaneously." — C. R.

It is easy to deceive foreigners as to English facts, in which they are interested. The only difficulty is to make up your mind to do it. It is like cheating a child.

Here, in England, few were really deceived. But where there is a strong temptation to do wrong, the conscience and the reason of common men scarce need to be convinced. A sneer, a laugh, a straw, will turn the tide; how much more an example.

Moral, like physical disease, has its curable and its incurable stages. The pirate that asperses the talent of the inventor whose brains he steals, is the incurable type. Here the moral vision is extinct. There is no more hope of the pirate when he has reached this stage, than there is of that other familiar English type, the murderer who writes home from the condemned cell, and lectures his dad for breaking the Sabbath, and warns his brothers to amend their ways.

Belgium in England, alias the English playwrights, comprehended this by instinct, and plucked up heart, reading this sprightly mendacity. They saw that L had raised them a champion, a manager of a theatre, a man justly popular on many accounts, who on this, that, or the other slippery excuse, would never pay a French author a shilling till the alternative should be Whitecross Street Prison, or some such logic. And now the press seemed to you, who are not in its secrets, to change its tone. Not a word more about national probity in so impure a trade as literature. Nothing now for years and years but sneers at the pretensions of French dramatists to be treated as honestly as other French writers, whom there was less temptation to swindle. The little slimy creatures that write in the side columns of journals, and utter not convictions, but interests, had hitherto been cowed by the thunder of the leaders, and driven into their holes, while the true staff of the journals did their duty, and uttered public and honourable sentiments on literary commerce; but now the true publicists went back to their petty political squabbles, and left the immortal arts: and the collateral vermin of the public prints crawled out into the sunshine of cleptomania diffused from the Theatre Royal Lyceum.

The proprietors of many English journals are simple enough to employ playwrights to write their dramatic articles. This secures a regular supply of mendacity and venality in the dramatic column even of respectable journals. Jack claws Jill on the distinct understanding that Jill shall claw Jack in his turn; and both Jack and Jill scratch all interlopers, and fight tooth and nail against any proposal to raise the English theatre, morally or intellectually.

The national honour (*sic Dis visum est*) now fell into the hands of these men; or, as the poets express it, "was levelled with the dust."

Their remarks upon honour and policy were numerous, but not various. These are not inventive even in fallacy.

Between the autumns of 1852 and 1856, the period I am now dealing with, they rang the changes upon the following arguments. I have extracted them carefully from acres of verbosity. And, N. B. ! these *succeeded*: these got us called a nation of equivocating rogues: and these postponed for many years the rise of a national drama: and these posterity will call

X: *Logicke of Thiebers.*

1. That any one can translate, but few can adapt.

2. That adaptation demands great labour and rare skill. That labour and skill create intellectual property: that to refuse the adapter the proceeds from sale of a property so created, and give them to the French author, is to rob skill and labour under pretence of protecting skill and labour.

3. That English adapters habitually improve the French dramatic inventors. Whenever a French adapted play succeeds in England the success is due to English talent, not French. The English talent, then, is the one that ought to be paid.

4. That practically it is impossible to protect the French dramatist: dramatic plagiarism and piracy are so much more subtle than any other kind. Scenes are altered, the whole dialogue reworded. The courts of law would have nothing to go by. As well try to grasp gas.

5. That France takes no English plays at all: to buy her plays, therefore, would be to roast the egg all on one side. Would this be an equitable treaty? equitable commerce? Why, it is not commerce at all. Commerce is

exchange of commodities, not eternal monotonous barter of English specie against French ideas, that must after all be wrought by English labour and skill into a saleable form.

6. That the governments of England and France never intended by this treaty to interfere at all with the English theatre. The copyrights only of French authors, not the stage-rights, were to be protected (a).

I wish my readers could be persuaded to study those propositions for themselves, before reading my remarks on them. The literary pirate is an intellectual and moral type, well worth the microscope. He has been dissected in France. But in this country, curious and interesting as he is, he has never been examined with any mental power.

How plausible all that appears; does it not?

1. Is a monstrous exaggeration. There are as many men who can adapt well as there are who can translate well. There are as many who, in point of fact, adapt plays ill, as there are who translate books ill. Let us begin first with the low levels. To translate requires some little knowledge of two languages: now we have dozens of adapters who don't know a word of French. The French piece is badly construed to them by an accomplice, who knows a little French. The adapter catches at the sense; his ignorance is heaped on his pal's; and he plays variations on the text, not because he sees his way to improve it, but because he is jumping at the Frenchman's meaning in the double dark. I can lay my hand on a dozen adapters of French pieces to the English stage, who know neither French, nor English, nor the stage.

So much for the *class* "adapter," in which talent of any kind is notoriously the exception, not the rule. Out of every twenty adapters how many are ever heard of in letters except when they bray in a Frenchman's skin? Three? Certainly not: two at the very outside. But, to go from the class adapter to the exceptional adapter,

2. Is rotten at the foundation. It is based on a sham alternative. Here it is assumed that either the French inventor

(a) Copyright is the sole and exclusive right of printing. Stage-right the sole and exclusive right of representation on a public stage.

must be defrauded in England or the English adapter must be defrauded. Mere chimera! Of course *both* ought to be paid. I grant that a competent adaptation requires labour and skill, and therefore ought to be properly remunerated; but for the same reason the longer labour and higher skill of the inventor ought also to be remunerated. Put the adapter at his highest, he is but the inventor's collaborateur. Why give all the proceeds to one collaborateur, the less meritorious of the two in respect both of skill and labour? For invention is the highest and rarest effort of the human mind, and adaptation is neither high nor rare; and as for labour, time is its best standing test throughout the world: show me the French play I cannot adapt to our stage in six days, as skilfully as any living Englishman can, and you shall cut my hand off to make donkey soup; but to invent the same thing would cost me a hundred days' labour, or more. Why, one of the very best adaptations I have ever read, "Game of Speculation," was done in twenty-four hours. The adapter tells us so himself in his preface (published by Lacy, Strand). Therefore my French brethren and I claim, in the name of the God of French and English and justice, one-half the English proceeds for the French inventor, the superior artist who works a thousand hours, and one-half for his collaborateur, the skilful adapter, who works from twenty-four to a hundred hours. This claim may or may not be nullified at law by the timidity of English tribunals, fumbling with an obscure clause in a well-meant blundering treaty; but it cannot be eradicated from the conscience, nor confuted on any sound principles of law and justice that will bear the test of universal application.

If a Frenchman makes a fiddle, and an Englishman makes the finger-board, pegs, and strings, and sells the instrument in England, is he entitled to the whole purchase money, or a part? Is the Frenchman entitled to none, or a part?

The iniquitous sophistries that are acted upon in literary business, — grocers and cheesemongers would not stain their souls with them.

3. Is a statement too broad to be disposed of in a sentence. It was repeated about twenty times between 1851 and 1856. But I could never trace it to any human being but journalizing adapters. No evidence has ever been adduced in support of this notion; and though men are gener-

ally sincere when they praise themselves at the expense of their intellectual superiors, they are very apt to be mistaken. The French dramatists, *as a class*, are writers. The English playwrights, *as a class*, and *exceptis excipendis*, are scribblers.

I shall prove, in a succeeding number, that *scribblers have always been possessed with a notion they could improve writers, and said so; and that posterity has always repealed that disinterested notion. Then, coming to direct evidence, I shall show that the English dramatic adapter *does not, and never did, habitually improve* the French inventor. On the contrary, the French play is commonly superior in every particular of dramatic excellence to the English improvement. I find the following scientific processes freely applied to their French originals by our adapters, alive and dead; viz.:—

1. The colour extracting process.
2. The carbonic acid gas extracting process.
3. The soiling process.
4. The Penelopizing process. (Turns plot to no plot.)
5. The dwarfing process.
6. The blunting process.

But for all that the originals not improved.*

Meantime, permit me to relate two little stories. I'll answer for the truth of the first. The second needs not my indorsement; antiquity is its voucher.

A TWO-HEADED STORY.

On circuit last year, a juryman stood up and informed the judge that he could not sit as a juryman. "Why not?" inquired his lordship. Juryman explained that he could not take the oaths; and cited texts of Scripture, "Swear not at all," etc.

The judge in question, a rough and ready kind of customer, with no taste whatever for humbug, inquired brusquely, whether he could find no texts in that book for obeying the law, and doing his duty to his fellow-citizens; but on the man persisting, and itching for a theological argument, he said, "Get out of the box, sir."

But as Theologus was moving off shopward, probably to

mix dust with his pepper, flour and tumeric with his mustard: "No, sir," said the judge, "you will not leave the court. You will sit *there* all day" (pointing to a spot where he could keep his eye on him); "you shan't get a holiday by your scruples" (a).

The other day the same judge, I think, was sitting in London; when suddenly, on a case being called on, up rises a jurymen. (*This time I cite all that passed ad verbum.*)

"My lord, I object to try these men."

The Judge (sharply). "Why so, pray?"

Jurymen. "Because I am a builder."

The Judge. "The scruple is an honourable one." And with that made arrangements to relieve him.

See how swiftly two really honest men, though in different stations, understand one another. The building operatives were on strike. An internecine war raged between them and the master builders. These men were to be tried for what they call "lawful combination," and their antagonists call "unlawful conspiracy and aggression;" and this honest builder had the sense, diffidence, and justice —

"Verbum non amplius addam."

There are men who can paint themselves better with a word, than we can do it for them with fifty.

Somewhere in the East, long before Niebuhr, there stood side by side a lion and a man, wasting time.

Arguing.

Still the discussion was conducted in a better temper than it is now-a-days, when these two meet.

The topic was the comparative strength of their respective species. Not far off was a piece of sculpture. The human disputant pointed to it. There, in breathing stone, a man was seen tripping up a lion's heels, cutting off his claws, twisting his tongue, with whatever else natural history, as propounded by the ancients, revealed on this head.

(a) Whether this novel imprisonment was by the law of the land, or by what is so much more potent, judge's law, this deponent sayeth not. Anyway, it gratifies the feelings of the honest citizen. For apply the unfailing test! If all men were to act like that virtuous jurymen, human justice would be disarmed *in nomine Domini*, and Newgate and L run about the nation unchecked.

"There!" cried the man, with the happy credulous vanity of his species, "What d'ye say to that?"

The lion yawned one of those fearful red and white yawns of his (at which the man started a little), and replied :

"A man carved that. When we cut statues, the lion will be uppermost."

This must have been a young lion, not versed in repartee, or he would have knocked the blarney-stone down with his fore-paw, and eaten the disputant on it.

No: on second thoughts it was an old, wise lion, who stood for immortality, not on a vulgar, practical joke, like dining at an opponent's expense, but on a shrewd answer, the justice of which man himself acknowledged a hundred years later, the period that animal takes to know sense from nonsense.

The French dramatist is a lion. His roar shakes Germany, Italy, Belgium, England, and echoes in the Western hemisphere. But he rears no columns to his own praise in English journals. There, where the lion is never heard, the poodle's yelp may pass for thunder.

Is it La Fontaine's lion, or whose, that says —

— nous aurions bientôt le dessus
Si nous savions écrire — dans le "Times" ?

4. This is one of those bungling pieces of reasoning that succeed with muddle-heads. It proves too much. (The recoil of this well-known fallacy is always fatal.) No distinction is here attempted between a French or English dramatic invention: on the contrary, the reason given why a French proprietor cannot be secured against piracy, proves equally that an original English drama cannot be secured. But English dramatic property has been for many years better protected by law and courts than any other literary property. The *à priori* conjecture therefore falls before a notorious fact.

Nor is literary history less fatal to this chimera than is legal experience.

Literature is full of plagiarism and piracy; but none has been so constantly, or is so daily detected, as dramatic piracy. A book-pirate may often escape by re-wording the matter, because in many books an essential feature is the language. The history of the word "plagiarism," originally "plagianism," is amusing, and in point. It is to be found in "Que-rard;" but was first disinterred by D'Israeli.

"Richesource, a miserable declaimer, called himself 'Moderator of the Academy of Philosophical Orators.' He taught how a person destitute of literary talents might become eminent for literature; and published the principles of his art under the title of 'The Mask of Orators; or the manner of disguising all kinds of composition; briefs, sermons, panegyrics, funeral orations, dedications, speeches, letters, passages,' &c. I will give a notion of the work:—

"The author very truly observes, that all who apply themselves to polite literature do not always find from their own funds a sufficient supply to insure success. For such he labours; and teaches to gather, in the gardens of others, those fruits of which their own sterile grounds are destitute; but so artfully to gather, that the public shall not perceive their depredations. He dignifies this fine art by the title of *PLAGIANISM*, and thus explains it:—

"'The Plagiarism of orators is the art, or an ingenious and easy mode, which some adroitly employ, to change, or disguise, all sorts of speeches of their own composition, or that of other authors, for their pleasure, or their utility; in such a manner that it becomes impossible even for the author himself to recognize his own work, his own genius, and his own style, so skilfully shall the whole be disguised.'

"Our professor proceeds to reveal the manner of managing the whole economy of the piece which is to be copied or disguised; and which consists in giving a new order to the parts, changing the phrases, the words, &c. An orator, for instance, having said that a plenipotentiary should possess three qualities,—*probity*, *capacity*, and *courage*; the plagiarist, on the contrary, may employ *courage*, *capacity*, and *probity*. This is only for a general rule, for it is too simple to practise frequently. To render the part perfect we must make it more complex, by changing the whole of the expressions. The plagiarist in place of *courage* will put *force*, *constancy*, or *vigour*. For *probity*, he may say *religion*, *virtue*, or *sincerity*. Instead of *capacity*, he may substitute *erudition*, *ability*, or *science*. Or he may disguise the whole by saying that the *plenipotentiary should be firm, virtuous, and able*.

"The rest of this uncommon work is composed of passages extracted from celebrated writers, which are turned into the new manner of the plagiarist; their beauties, however, are never improved by their dress."—(*"Curiosities of Literature,"* Ed. 1838, p. 145.)

A friend was staying with a Welsh parson, and heard him preach in the afternoon.

"By Jove," said he, "there was good matter in your sermon; I did n't think you — ahem."

"It would be odd if there was not," said the preacher: "it was one of Bishop Butler's."

"Bishop Butler's? was it? Well now, you surprise me. I have read Dr. Butler's sermons, and I did not recognize it."

"Oh!" says the other, "you don't know how I manage. I have two services, one in Welsh, one in English. Well, I translate his sermons into Welsh to begin: and there I am all safe; my Welsh flock don't read Butler. Then I take my Welsh and translate it into English; and after that the devil himself would not know them again." I cite ad verbum!!

But all the Richesources and Taffies going can't do this with a play; because, underneath the words, or flesh, there lies in every play an indissoluble skeleton, consisting of plot, characters, situations, pictures. You may reword these to any amount; you can't hide them.

* This dramatic skeleton exactly corresponds with what in a patent is called *the specification*, and is the heart of the invention. Now when the English mechanical inventor is pirated in England, in nine cases out of ten the fraud tried on him is neither more nor less than the adaptation swindle.*

But the adaptation swindle is constantly detected and baffled by our courts in patent cases; why then should it not in stage-right or copyright cases?

To conclude; if we were all just getting out of the ark on to Ararat, Ham might reasonably conjecture that detection of dramatic pirates would be peculiarly difficult. But the conjecture comes too late, when for the last hundred and sixty years they have been successively detected and exposed in print by Langbaine, Jacob, Baker, Reed, and Jones, Genest, Oxenford, and the journalists of our day, while so many other literary pirates have escaped, and are now escaping detection.

It is only in literature, "the insane root that takes the reason prisoner," a man would dare to argue out of the nature of things, that what he sees done by the "Times" critic, and other journalists of small research every week, and admits he sees it done, is an intellectual impossibility: easy and impracticable, constantly done and not to be done at all. This is what I call "cephalomancy," or "divination by means of an ass's skull in the teeth of direct evidence."

5. If the same man could be a mediæval hermit, and a modern thief, this notion of equity in international commerce

would not discredit his double character. How can the prime export, physical or intellectual, of any nation, be also its main import? England is just now going to buy French wines on a large scale. Will France, in return, buy English *wines*? Certainly not. No international balance was ever struck, or ever will be struck, in that way. France will sell us her wine and silk, etc., and buy our coal and cotton, etc. It is the same in intellectual exports.

At present France produces more original plays than we do. We produce many more biographies, voyages, and travels, and three times as many reviews and magazines as she does. Are these, our main intellectual exports, protected under the treaty? They are. Then how can any quibbler short of Satan look the God of nations in the face, and pretend it is equitable that France's main intellectual export should not be protected too?

And this brings us to No. 6. What is the true interpretation of the dramatic clauses in the treaty?

I print these clauses from the "London Gazette," Jan. 16, 1852:—

"ARTICLE IV.

"The stipulations of the preceding Articles shall also be applicable to the representation of dramatic works, and to the performance of musical compositions, in so far as the laws of each of the two countries are or shall be applicable in this respect to dramatic and musical works first publicly represented or performed therein.

"In order, however, to entitle the author to legal protection in regard to the translation of a dramatic work, such translation must appear within three months after the registration and deposit of the original.

"It is understood that the protection stipulated by the present Article is not intended to prohibit fair imitations, or adaptations of dramatic works to the stage in England and France respectively, but is only meant to prevent piratical translations.

"ARTICLE IV.

"Les stipulations des Articles précédents s'appliqueront également à la représentation des ouvrages dramatiques, et à l'exécution des compositions musicales, en tant que les lois de chacun des deux pays sont ou seront applicables, sous ce rapport, aux ouvrages dramatiques et de musique représentés ou exécutés publiquement dans ces pays pour la première fois.

"Toutefois, pour avoir droit à la protection légale, en ce qui concerne la traduction d'un ouvrage dramatique, l'auteur devra faire paraître sa traduction trois mois après l'enregistrement et le dépôt de l'ouvrage original.

"Il est bien entendu que la protection stipulée par le présent Article, n'a point pour objet de prohiber les imitations faites de bonne foi, ou les appropriations des ouvrages dramatiques aux scènes respectives d'Angleterre et de France, mais seulement d'empêcher les traductions en contre-façon.

"The question whether a work is an imitation or a piracy shall in all cases be decided by the courts of justice of the respective countries, according to the laws in force in each."

"La question d'imitation ou de contrefaçon sera déterminée dans tous les cas par les tribunaux des pays respectifs, d'après la législation en vigueur dans chacun des deux états."

By an act of Parliament, passed in May 28, the French treaty became law in this country, so far as it did not clash with anything in the Act that made it law. I have discovered no discrepancy between the treaty and the Act: only the Act explains clearly one or two passages in the treaty, that might otherwise have been disputed perhaps.

For instance, it is not quite clear on the face of Article IV. (treaty), whether musical pieces are placed on the footing of books, or of dramatic pieces; but the act shows clearly that they go with the latter (sect. 6). Again Mr. Matthews doubted the meaning of these words in the treaty, "such translation must appear within three months after registration and deposit of the original;" and certainly "appear" might mean appear on the stage, or appear in print. The Act, however, had settled in May the doubt that afflicted Mr. Matthews in July (sect. 8, par. 6). "In the case of dramatic pieces, the translation sanctioned by the author must be *published* within three calendar months of the registration of the original work."

I cite the 4th and 6th sections of the Act mainly to show that not mere copyright (as has been pretended) but stage-right, or the sole right of representation, is what the legislator intended. This accords with Article IV. of treaty, first paragraph, last line. It is not the English of educated men, nor even of charity school children. But the idea is just visible looming through the fog.

"IV. Her Majesty may, by Order in Council, direct that authors of dramatic pieces which are, after a future time, to be specified in such order, first publicly represented in any foreign country, to be named in such order, their executors, administrators, and assigns, shall, subject to the provisions hereinafter mentioned or referred to, be empowered to prevent the representation in the British dominions of any translation of such dramatic pieces not authorized by them, for such time as may be specified in such order, not extending beyond the expiration of five years from the time at which the authorized translations of such dramatic pieces hereinafter mentioned are first published or publicly represented.

“VI. Nothing herein contained shall be so construed as to prevent fair imitations or adaptations to the English stage of any dramatic piece or musical composition published in any foreign country.”

Pirates, in interpreting this Act and treaty, pounce on the clause that favours them, and ignore all the others, and their modifying effect. Even lawyers, little ones, have been known to interpret a clause so; but a great lawyer — never.

All the clauses of an Act are of equal force, and come from the same breast. A judge, therefore, in interpreting a statute, searches for the mind of the legislator, not in a single clause, but in all the clauses that bear on a point. These he reads by three lights, viz., their respective light, and the light they cast on each other, and the general intention of the enactment. Where two clauses seem at variance he leans towards any reasonable interpretation that reconciles them. Just conceive the consequence if he did not. Were the pettifogger's plan adopted of reading each clause as an independent statute, many an invaluable law would be frittered into Kilkenny kittens.

Let us then examine all the materials. They are these:—

THE FOREIGN BOOK AUTHOR.

The State sells to the foreign book author the sole right of translating his book or causing it to be translated, and the translation sold in England. The terms are—

1. That he shall notify on the title-page of the original work that he reserves right of translation.

2. Must register original work at Stationer's Hall, and deposit a copy gratis within three calendar months from date of first publication.

3. His authorized translation must be published in England within *one year* after said registration and deposit.

4. And it must be registered, and a copy deposited gratis within a certain time.

If he escapes each and all of these gins, springes, and author-traps, the State secures to him for five years what is his own for ever *jure Divino*, and by the universal human law of honest and unsalaried labour.

THE FOREIGN DRAMATIC AUTHOR.

1. Must notify on title-page, etc. (same as book author).
2. Must register original play (same as book author, vide *supra*).
3. His authorized translation must be published in England within *three calendar months* of said registration.
4. Same as book author, *supra*.

If he pays these prices, and escapes each and all these gins, springes, and author-traps, then the State secures him, for five years only, the sole right of representing on our stage his play in English, proviso that nothing herein contained is to be so construed as to prevent fair imitations, (a) or fair adaptations of his piece from being played in England.

THE MUSICAL COMPOSER.

That protection, limited as above, which the State *sells* the foreign dramatist on the hard and harassing conditions specified, it *gives* the musical composer without any conditions at all.

“Ex quo vis ligno non fit Lycargus.”

The pirates say, the proviso means that any adaptation is permitted, however close, and however destructive, by direct competition and undersale, to the authorized version. The words will bear this sense. But will they bear no other? and could so heartless a fraud as this be intended? The treaty, thus interpreted, sells the foreign dramatist on hard terms — what? false hopes, nothing more. It becomes a mere trap to catch his copies and his money. It gives him practically nothing he did not possess before the treaty. He had always a right to compete with English pirates on even terms; and the right *cost him no fees, no deposits, no printer's bill*.

The dramatist is associated with the book author. Why was this, if no protection was intended him? It was easy to omit him — easy to except him. Severe conditions fulfilled create rights. Condition 3 is doubly severe in his

(a) Treaty says fair adaptations and imitations, Act says fair imitations and adaptations. I have therefore combined the two.

case : first, because only three months' delay is allowed him instead of twelve ; secondly, because if he does not gain *protection* by printing this translation, he gains nothing in return for this expense the State involves him in. The translation of a book is another matter. That is property in its saleable form. *But a translation of an unacted play is not saleable at all in book form.* It is mere waste-paper if not played in a theatre. To be saleable at all, then, it must be in some degree protected against *theatrical piracy*. But the protection would be not limited, but null, if the inventor or his assigns could be elbowed out of all the theatres by mere colourable imitations of his own invention.

Add to all this, that the adjective "fair" in connection, seems to moderate extreme views on either side, and to mediate between the rest of the proviso and the clauses, that, by inviting to expenses, hold out hopes of an equivalent. The use of this adjective, "fair," implies that some kind of adaptation might be unfair, and not permitted. If the proviso ended there, it would almost follow that an adaptation so close to the invention and its title as to thrust the foreign authorized version out of all chance in the English theatrical market, is forbidden by implication.

But then come the words, "but only to prevent piratical translations." These words are not in the Act, but they are in the treaty ; and though they are not the words the pirates rely upon, I think a judge would attach the most weight to them. Is the stress here on "piratical" or on "translations" ? that is the question. If no more followed, I should say "on the substantive." But then the succeeding clause seems to imply the stress is to be on "piratical." It tells us the courts of law in each country are to decide "whether any work is an imitation or a *piracy*."

Now this sentence, and the independent inference from the use of the word "fair," strengthen one another ; for it can in no case require a court of law to decide so naked a thing as whether any dramatic piece is a translation or an imitation. Parties would never join issue on this : it is not of a debatable character. But the contracting powers are clearly providing for a genuine difficulty, a knot dignus judice.

A third consideration seems to throw the weight upon the adjectives "fair" and "piratical," rather than upon the sub-

stantives. Musical inventions are here put on the same footing as dramatic. Now, what do the Act and treaty intend by a "fair adaptation" of the notes of a musical composition? clearly not any adaptation whatever, which shall not be a translation. Why, musical notes are not translatable. The French notes of "*Partant pour la Syrie*" are its English notes. The contrast then must be sought elsewhere. The *fair* adaptation, or *fair* imitation of a musical composition, must surely mean one that takes much of the cream, but not all; not quite enough to destroy the invention as property. In some such sense as this, the words "fair adaptation" and "fair imitation," can be reasonably applied to plays and to musical compositions. How else can they be construed to fit both?

This, then, I think, is what the contracting powers meant to say. *If so, of course they have not said it.*

In this discussion I have been faithful to my plan, and laid before you not my more recent discoveries, but the views I held from 1852-57. The logic of larceny, into whose wheel I have just ventured to put a spoke, won the day in England—hollow; and by way of comment, versions of French plays came out, one after another, closer to the French text than they were before the treaty (a). Then the French press teemed with remarks, sometimes angry, sometimes satirical, on the low cunning with which a nation of shopkeepers had overreached a nation of warriors and artists.

These remarks gave me great pain: they were exaggerated; but I could not deceive myself into thinking them baseless. I used to say to them: "You are wrong to take any interpretation but an English judge's. In England, nobody knows what an Act of Parliament means till it has received its construction in a court of law. The legislator himself has not an idea what he means, till the judges tell him. Try the question," said I.

But here the vile reputation our courts have got, not for their decisions, but for bleeding the suitor, came in the way. They dared not go into an English court of law, relying

(a) This was a mere accident, owing to the number of adapters increasing, as it naturally would. Still it shows how completely inoperative was the treaty.

on a rotten statute ; sure of nothing but being bled a bucketful.

Mr. Lévy, the dramatic publisher (Rue Vivienne), registered the French pieces for some years, in compliance with the statute, but at last he was persuaded the whole thing was a shuffle, and declined to pay the English government any more solid fees for an empty shadow.

The pirate journalists, on this side the water, relieved of all their fears, indulged in the insolence of settled triumph. They made especially merry over a proposal for a Bureau de Traduction that appeared in French journals, and a milk-and-water agent whom the French dramatists appointed to protect their British rights. Poor wretches ! they did not see it was the national dishonour they were grinning over, and that France had the best of the bargain after all ; since she was defrauded and we disgraced.

Whilst these were grinning, I know who was writhing and blushing. So would you if you knew how worthy French authors are, how valuable and hearty is their good opinion where they can give it, how highly their own nation prizes it, and how vile an estimate they formed and expressed of English writers' morals and delicacy.

In this state of things I learned, to my delight, that there was another Englishman who thought with me, and, what is much rarer, acted as he thought. Mr. Palgrave Simpson, without any communication with me, had, since the year 1852, steadily declined to adapt French pieces without remunerating the inventor.

I compared notes with him, and learned his sentiments.

Mr. Palgrave Simpson considers that all French works, published previous to the treaty, are fair game here, and all English works ditto in France. But for pieces produced since the treaty he has constantly dealt with the French author, and paid him half or a third, as may be (a).

If any other English writer, or any manager of a theatre, has dealt on the square with the French dramatic authors

(a) In the present state of the treaty this is liberal ; because the French author can really give the adapter no property in exchange. The adapter, therefore, runs a risk of not getting his adaptation, however valuable, played at all. This risk is fairly deducted from the French author. Whenever an honest, sufficient statute passes, I am sure Mr. Simpson will give the French inventor half in every case.

between 1851 and 1860, I entreat him to send me particulars, and let me have the very great pleasure of printing his name in this page. Each such name adds something to the credit of English letters, and subtracts something from its shame. I keep the type standing for all such, and a blank space ready to be filled.

The seven wise men of Greece risked their several reputations on short dicta, samples of their wisdom. One stood on "Know thyself;" another on "Habit is everything;" a third on "Nothing to excess;" etc., etc. I wish I had all their reputations, that I might stake the aggregate on these six syllables —

PUT YOURSELF IN THEIR (a) PLACE!

For this single precept, should the world begin next Monday morning to give it a fair trial in all transactions between man and man, would double the intelligence and morality of our race long before Wednesday night.

And why? because it is the intellectual step towards obeying the divine maxim, "Do unto your neighbor as you would he should do unto you." And when this preliminary intellectual step is not taken, forty to one the moral maxim, spite of its sacred origin, is violated. Forty? Four hundred!!

I do entreat you, then, shut your eyes, open your imagination, and by one vigorous effort put yourself in their place!

It is done. Malgré the salt-water ditch, and the mountains of egotism, that Nature has set between us, we are in France for five minutes; and for five minutes

WE ARE THE FRENCH DRAMATISTS.

We are a distinguished body of some three hundred writers; highly prized, and severely protected, throughout the French territory.

Up to 1851 we were even worse pillaged by foreign nations than other French writers. When treaties to put authors on the footing of mankind were first discussed, our

(a) I use this idiomatically, for his, her, or theirs.

past wrongs were admitted, and our interest in the promised relief had its weight in bringing nations to equity. Our expectations rose high. We have a wealthy and civilized neighbour, keen in business, but jealous of her commercial honor. No nation so indebted to us as she in times past. Her theatre has been enriched gratis with more than a thousand of our inventions. We have not taken a hundred from her. In 1851, after some discussion, she declined to settle arrears with us; but she acknowledged them; and that made us feel safe for the future. Our treaty arrives, and lo! she has drawn an unkind distinction between us and other French authors.

Yet the Shakespeare she justly reveres above all her own writers was a dramatic author. Were he alive she would outlaw him in France by outlawing us in England.

This treaty actually makes the terms of protection more severe to *us* than to our brethren, yet the protection we buy so dear is to be small, or null. This may be "*l'esprit des lois*," as understood by Satan; but it would make Montesquieu as sick as a dog; and Bentham as sick as Montesquieu.

No kind of iniquity is so bitter to the sufferer as *partiality*. What have *we* done to England that she is our brethren's friend yet our enemy; and under cover of equity? What? a great nation attack individuals! Why, even in war, national hostilities are now diverted from individuals. We can comprehend a nation declining altogether what it thinks a bad international bargain. The United States of America, as we learn from the abusive epithets of English journalists, refuse to sign any copyright treaty with Great Britain. We can understand that: it is fair and above board, and it is an incident common enough in the history of nations. That is merely to refuse the hand. But what we can't understand, is how a great people can offer the hand and draw back the fingers.

The excuses of the English press for still outlawing us, though England outlaws our brethren no longer, do but confirm our bitter sense of injustice. Was ever such egotism? One would think the channel had but one side, and justice was like the channel. "We don't translate, we only imitate," say they. What the better are *we* for the distinction? Your imitation, however remote it may seem to your vanity, is identified by the naked eye with our invention, and renders

the invention unsaleable in *our* hands. Treat with us ! and then adapt, imitate, and sell in what form you please the inventions you will have honestly purchased. You dare not *so imitate an English dramatist's invention*. Why then so juggle us ? "c'est lâche !"

France is an old country. These shallow subterfuges you think you have invented, you who invent nothing, they were exposed here ages before you were born.

"Quoi qu'en disent certains railleurs,
J'imité, et jamais je ne pille.
Vous avez raison, Monsieur Drille ;
Oui, vous imitez . . . les voleurs."

The next subterfuge is, that to adapt an invention is harder than to invent an invention.

And how do you know that, Messieurs ? Have you ever tried ? But say it were so ! do we hinder you to invent ? We but ask you to pay something for such of our inventions as you take and adapt. You won't ? Then invent ! it is easy, you know ; and resign the roguery you find so difficult.

The next subterfuge is, that we take no English plays ; so ours are to be stolen, not bought. What other Englishman but the piratical adapter ever talks thus ? Against what other Frenchman dare even he argue thus in public ? We sell England no razors ; yet we buy English razors, and claim no right to steal them. England takes millions of eggs from us, and we none from her : yet she buys French eggs, not steals them. Every French article sold to the English public has to be bought of the French owner. Our commodity is the *sole exception, physical or intellectual*. and nobody can give us a reason that does not by its absurdity confirm us in our opinion that we are cruelly, ungratefully, and unjustly used. Moreover, two English writers have constantly disowned the reasoning, and the practice of their nation : and this, too insignificant to cure so wide a wrong, is valuable as a proof that the wrong is an obvious one. And now we are advised to appeal to the law courts of this perfidious nation : courts whose purity we admit, but whose capacity in matters of *copyright* is lightly esteemed by our jurists : courts, too, infamous throughout Europe for the expense they put the suitor to.

Others dissuade us. They say that all which has occurred was planned in England in 1851, with cunning truly diabolical : that not having the courage to say openly, "from this equal treaty we will except your principal authors and their property," the English government smuggled in an equivocating clause, satanically worded, to be read in good faith by our government as giving us a certain protection, but in practice to leave us at the mercy of the pirates, and to baffle us entirely in their courts of law.

"Comptez donc sur les traités signés par le mensonge,
Ces actes solennels avec art préparés !"

Then comes our friend Mr. Reade, and says, that self-contradiction and the perverse selection of equivocal terms are the chronic mania of English legislators. He entreats us not to suspect notorious addlepaters of fraud, because they are unintelligible : and would have us try the English judges, and let them try us.

If the court goes with you, says he, all is well. If against you, the iniquity you suspect will be proved and commented on. In England an iniquity exposed in court is half cured. Besides, you can then go to your own government with a clear case.

Mr. Simpson has advised the same course.

This much is certain ; our present situation is desperate ; this sham protection is far worse than none ; for it perpetuates the wrong by creating a doubt whether the wrong exists ; and so averts both sympathy and cure.

En Italie l'état de bandit est une profession. Il n'en est pas de même en Angleterre.

Quand on s'engage dans les Abruzzes, on sait à quoi on s'expose ; mais si l'on a un sauf conduit, on est respecté. Le sauf conduit vis-à-vis les Anglais, c'est le traité qu'ils ont signé ; et ce traité est réduit à l'état de lettre morte.

Of desperate ills, desperate cures.

We who have been bled so copiously in England, let us bleed once more, to get at the truth. Let us pay these islanders another five or six thousand francs to tell us, without an equivoue, what their equivoue means.

The Channel, you see, has two sides, and Justice two scales. And now that you have caught a glimpse of the

feelings, bitter, and here and there excessive, but not unjust, that lie in the hearts of our outlawed benefactors, for the credit of our common nature give them some few grains of human sympathy in this their hard situation, and the struggle it led to.

In the autumn of 1856, being in Paris, it was hinted to me that the French dramatists were coming round to the view I had often urged on them, and were disposed to take legal proceedings in England to get the treaty formally interpreted.

Though I had long ceased to write for the theatre, or take a pecuniary interest in it, I had not lost my zeal for its improvement, and for our allies' rights. I acted, therefore on the above hint, and looked out for a subject. It was some time before I could find one. Being an inventor myself, I cannot, even with the best motives, write mediocrity, (another's).

At last a piece with an idea came out at "The Ambigu Comique." It was called "Les Pauvres de Paris."

"Aha!" said I, "you'll do." The authors were Messieurs Edouard Brisebarre and Eugène Nus. I called on the former, and explained the whole matter to him. I treated with him, not on the same terms as with Monsieur Maquet, but as I have done with Monsieur Anicet Bourgeois and others, in 1852. However, the assignment will explain itself; not being worded by an English legislator.

The next thing was to do my part of our contract with the British State. First, to register the original piece in Paris. I did it. Next to produce a version, and publish it, and enter it at Stationers' Hall. Well, I printed my version, which cost me 8*l*. 15*s*., and took it to Stationers' Hall; there I found officials who would not register it without a declaration from the French authors. I produced the assignment, on papier timbré, with their signatures. "That won't do; must have inferior evidence, their signatures in answer to a letter." Obtained it from Paris. Another visit to the City: got it registered at last.

"Oblige me with a stamped copy!" (a)

"You must call again for that."

(a) The stamped copy is *prima facie* evidence in a court of justice, and averts the necessity of bringing the French authors into court.

"Why so? my time is precious."

"It is contrary to the rule of the office to issue the copy *the same day.*"

Another afternoon wasted, going to Stationers' Hall, City. (N. B. — Who robs an Englishman of his time, robs him of gold.) Got the document at last. [I have done the identical thing in Paris; and there it was all done at one sitting, and the official parchment placed in my hands at once.]

In a proceeding of this kind it is not fair to take people by surprise. Very early, therefore, in these proceedings, viz. on the 16th and on the 17th of October, 1856, I advertised as follows, in the "Times":—

"LES PAUVRES DE PARIS."

"The authors of this drama are preparing a version for London. It will be printed according to the statute in a few days: meantime their solicitor is instructed to restrain any other version, or imitation, by an injunction of the Court of Chancery."

About the middle of November I sent copies of the authorized version to certain journals, and to the theatrical managers, and offered to treat on fair terms. I now reprint the title-page in fac-simile, and the preface.

POVERTY AND PRIDE.

A Drama in Five Acts.

BY

CHARLES READE.

BEING THE AUTHORIZED ENGLISH VERSION OF

“LES PAUVRES DE PARIS.”

DRAMA BY MESSRS.

EDOUARD BRISEBARRE AND EUGENE NUS.

LONDON:

RICHARD BENTLEY, NEW BURLINGTON STREET.

1856.

LONDON: PRINTED BY W. CLOWES AND SONS, STAMFORD STREET.

IN the year 1852, the few nations that are really civilized agreed to protect mutually the parents of civilization, authors, from a principal enemy of civilization, — thieves.

A treaty with this view passed between two rivals in civilization, England and France, and in due course became law.

The act, like the treaty, is so worded as to give a full protection to books, and a limited protection to dramatic pieces.

“Fair imitations and adaptations of a foreign drama are excepted.” The treaty, then, protects the foreign dramatist only against unfair adaptations and imitations.

Here arises a question: What is a fair, and what is an unfair adaptation or imitation of a foreign inventor’s idea and labour?

I am ashamed to say that there is in England a clique, which has asserted that no imitation or adaptation is unfair, provided the Frenchman’s property is taken without his consent, and not a farthing of English money goes into his pocket for it.

This is the logic of thieves.

I disown it in my own name, and in the name of every honest Englishman to whom the nation’s credit for probity and equity is dear.

In 1852 I acted on the notorious object of the treaty, by pur-

chasing for cash a French author's property in a drama called "Chateau Grantier"; and I have acted on it in 1856, by assuring to Messrs. Brisebarre and Nus one half the English profits of "Les Pauvres de Paris."

In interpreting statutes, the rule is to read, not one clause of an act, but all the clauses, and each by the light of the others, and also of the general intention declared on the face of the statute.

Proceeding thus, I understand "by a fair imitation or adaptation," one so vague or partial as not to destroy the value of the authorized version, and so the French proprietor's property in this country.

The other interpretation, besides contradicting the eighth of Moses, by which all modern statutes relating to property are in some degree interpreted, is open to the fatal objection, that it would leave foreign dramatic pieces exactly as it found them, viz., entirely unprotected; whereas both treaty and statute profess to make *some* change, and confer on them *some* protection, and even to settle the terms of that protection.

One of these terms is, that France shall pay England, (and *vice versâ*.) for each dramatic piece to be protected, a small registration fee. And, in fact, since the treaty, considerable sums have passed from France to England, in the faith that this fee is, as the act affirms, the consideration paid by one nation for value to be returned by the other in the shape of protection to the dramatic piece registered.

Of two things one: either England does give some protection to French dramas, or she has for four years been swindling France out of those registration fees.

I do not take my country for a swindler. Whoever does has only to steal the scenes, situations, and soul of "Les Pauvres de Paris" from the French inventors and me, and I promise him that the highest court of law in this nation shall decide whether England or he is the swindler.

Meantime, the authorized version of that play is now offered to the public and to the theatrical managers by Messrs. Brisebarre, Nus, and Reade.

A question is here raised fraught with important consequences. I am trying this day to lay, not only the first stone of international dramatic honesty in these islands, but also the first stone of an English dramatic literature. For English dramatists will spring up, the moment they are encouraged as English journalists, novelists, biographers, and compilers are; and they will be so encouraged the moment a Frenchman's play has to be bought from him, instead of stolen.

I beg the London managers not to fancy that I do not sympathize with their difficulties, or care for their just interests.

They gain nothing by paying pirates a small sum for a smuggled piece, that, by step two of the same rotten system, is to be pirated from *them* at the fifteenth night; it is more to their solid interest to pay a moderate sum to the French proprietor, or the representative of his interest, and so acquire (by the simple process of deserving it) a five-years' monopoly in such good French pieces as suit their respective stages.

C. R.

November, 1856.

DRAMATIS PERSONÆ.

THE COUNT DE ROCHEVILLE, *a poor Nobleman.*
M. VILLEBRUN, *a Banker.*
PIERRE BERNIER, *a Sea Captain.* } played by one actor.
ANDRÉ BERNIER, *his Son.*
PLANTEROSE, *a Banker's Clerk.*
JOSEPH, *a Domestic.*
JOUBERT, *a Civic functionary.*
BIGOT, *a Workman.*

EMILIE VILLEBRUN.
MADAME BERNIER.
ANTOINETTE BERNIER.
MARGOT, *Servant to the Berniers, and mother of Bigot.*

To give still further publicity to the transaction, and to my views, I published a little manifesto in the "Era," our dramatic weekly. I do not cite it; the opinions it embodied are all in these pages.

I soon found, and not to my surprise, that I had walked into a hornet's nest. Many opprobrious epithets were lavished on me; many perverse and sordid misinterpretations of my conduct and motives were published by pirate journalists, and publishers' hacks, hanging on to the skirts of the press. It is easy for poor degraded wretches, lost not only to honour, but common manhood, to throw dirt in the dark from behind the wall of the anonymous at a gentleman, whose pen or dog-whip they dare not face: but skunks do not find it so easy to assault justice, or even me, by the way of *argument*. Accordingly, dirt in abundance was thrown at my person and name; but my opinions and statements remained (a) unanswered.

But a more serious and less cowardly opposition was at hand.

It came close upon an incident creditable to the English theatre. On or about the 9th February, Mr. Creswick, one of the managers of the Surrey Theatre, called on me at my club, and offered to pay a small sum for permission to play an adaptation, by another writer, of "Les Pauvres de Paris." The proposal was not at first blush agreeable: first, it was not flattering; secondly, it is a serious injury to this kind of property to break into the monopoly at all. Per contra, the Surrey Theatre plays to a distinct audience; and above all, this was an act of English virtue; and I was almost childishly eager to introduce English virtue and English money to my allies. I consented.

I print the agreement:—

GARRICK CLUB, Feb. 11.

It is agreed between Messrs. Shepherd and Creswick on the one hand, and Mr. Charles Reade on the other, that Messrs. Shepherd

(a) The single exception was this. On the question of the balance of imports, an anonymous writer had the folly to deny that England produces far more Reviews, Magazines, Voyages, and Travels, than France does. *Answer*—Read the "Publishers' Circular," and the advertisements of both nations! "Black is white," is easily said. But why print it in a journal?

and Creswick shall receive permission to play a version of "Les Pauvres de Paris," upon paying twenty pounds to him, of which one half is to go to the French authors.

It is however a distinct stipulation in this agreement, that the version played by Messrs. Shepherd and Creswick shall contain nothing that is in Mr. Reade's published version but is not in the French original.

WM. CRESWICK.
CHARLES READE.

The right of adaptation thus honourably obtained, the Surrey adaptation was played, and in due course printed. Here is its title-page :—

FRAUD AND ITS VICTIMS.

A Drama,
IN FOUR ACTS,
PRECEDED BY A PROLOGUE.

BY

J. STIRLING COYNE, Esq.,

Member of the "Dramatic Author's Society."

AUTHOR OF

"Man of Many Friends," "My Wife's Daughter," "Box and Cox,"
"Married and Settled," "Binks the Bagman," "How to Settle
Accounts with your Landress," "Did you ever send your
Wife to Camberwell," "A Duel in the Dark," "Leo the
Terrible," "Mrs. Bunbury's Spoons," "The Water
Witches," "An Unprotected Female," "The
Pas de Fascination," "The Hope of
the Family," "Willikins and his
Dinah," "The Old Chateau,"
"Catching a Mermaid,"
"The Secret Agent,"
&c., &c., &c.

THOMAS HAILES LACY,
WELLINGTON STREET, AND
89, STRAND,
LONDON.

[Of this 20*l.*, one half paid the expenses of protection, viz., the printing of the authorized version, the various registration fees, the stamped copies, and the advertisements. The other half went to the French authors, and proud I was to be able to send even that small sum. It was a beginning.

The very next day, Feb. 12, walking along the Strand, I came bump upon a board, placed at the door of the Strand Theatre; on that board was a poster, announcing

"THE PRIDE OF POVERTY," or "THE REAL POOR OF LONDON;" a drama, taken from "*Les Pauvres de Paris*."

I instantly bought the small bill of the theatre, and saw what you see now.

Strand Theatre.

Proprietor—Mr. F. W. ALLCROFT. Sole Lessee—Mr. T. PAYNE.

THE PRIDE OF POVERTY; or, THE REAL POOR OF LONDON.

This powerful Drama, replete with Incidents, was suggested to the Management by the extraordinary success attending the production of "LES PAUVRES DE PARIS," which for months has attracted and delighted the Parisians. An attempt is made to bring before the Public notice, the trials and sufferings, not of the professed Mendicant, but of those whose Pride and Self-respect induce them to preserve appearances—in fact

THE REAL POOR OF LONDON.

Monday, Feb. 16th, & during the Week,

The Performances will commence with (First time) a Drama, in 3 Acts, by Messrs. Ben Barnett and J. B. Johnstone, entitled

THE PRIDE OF POVERTY; Or, the Real Poor of London.

Induction — **THE BANKER.** Scene — **WILLOW ASH.**

Mr Ralph Vernon . . . (the Banker) . . Mr J. B. JOHNSTONE
Mark Ravenstone . . (his Clerk — "Sinned against and Sinning") . . Mr KINLOCH
Frederick . . . (the Father) . . Mr. JOHN HOWARD

AN INTERVAL OF FIFTEEN YEARS.

Act 1. - LONDON. LIFE'S VICISSITUDES.

Scene 1st. . . COVENT GARDEN MARKET.

Mr Ralph Vernon Mr J. B. JOHNSTONE
Mark Ravenstone . . . (a Mendicant) . . Mr KINLOCH
Frederick Ranger . . . (The Son) . . Mr JOHN HOWARD
George Normanton . . (a Poor Gentleman) . . Mr G. LEE
Peter Stilplod (A Perambulator—a Dealer in Books, but not Stationary) Mr J. CLARKE
A Pawnbroker Mr JAMES. A Policeman Mr EDGE. A Passenger Mr HENSON
Mrs Ranger . . Mrs WOOLLIDGE. Clara Ranger . . Miss Kate PERCY
Martha Mag (of Low Class, but High Principle—with a Song) Miss CUTHBERT
Ella Vernon . . (the Banker's Daughter) . . Miss Emma WILTON

Scene 2nd. - The Widow's Home. The Portrait.

Scene 2nd.—The LONDON RESIDENCE of the BANKER.

The Mendicant and the Banker—the Arrest.

ACT II.

Scene 1st.—The South Western Railway Station, Waterloo Road.
The Itinerant Dealer.

Scene 2nd.—Wellington Street North, Strand.
The Lover and his Friend.

Sec. 3rd.—TWO CELLARS IN SHORT'S GARDENS.
The Suicide.

Sec. 4.—Street in London. Sc. 5.—Drawing Room at the Banker's.
The Wind-up.

A piratical version of a French play was, in my view, an unauthorized adaptation, so published or played, in matter, form, or title, as to supersede and undersell the authorized version.

Now here was the French title, and the credit attached to it, offered publicly for sale in spite of its authors, and my English title "Poverty and Pride" tampered with into the bargain, and an imitation of it hung out in the street to bait a rival adapter's hook.

Whether the coming adaptation was in itself close or free remained to be shown. But the place was suspicious; this theatre was infamous for evading author's rights; and query, could any adaptation be fair with an unfair title (a)?

This advertisement, not parried, was destruction to my allies' property and mine. I knew this by foresight then. I know it now by fact.

I went in all haste to my friend and solicitor, Mr. Annesley: out of course! Made an appointment for next day. Went to the "Era" office, and inserted the following advertisement:—

"LES PAUVRES DE PARIS."

Whereas the manager of the Strand Theatre has advertized a piratical version of this play, the authorized version of which and the original have been entered at Stationers' Hall, this is to warn all other managers and lessees of English theatres that injunctions in the Court of Chancery are at this moment being prepared, both against the lessee and the manager of the said theatre.

GEO. ANNESLEY, 64 Lincoln's Inn Fields.

This to save the relics of our property.

The next day I had a conference with Mr. Annesley, which ended in his drawing up a formal notice to Mr. Payne, threatening proceedings in Chancery should the play be continued. Mr. Annesley's managing clerk served this notice next morning (Saturday) on Mr. Payne, at the theatre; and I accompanied him, with a motive which has been ungraciously misrepresented, but never misunderstood.

Mr. Payne, the manager of this theatre, was a poor man,

(a) If I take crumbs of bread, and sell it as "Holloway's Pills," it is just as much a piracy as if I imitated his materials as well as stole his title.

maintaining a hard struggle to keep his theatre going. I went in person to mix a little courtesy with law, and divest a public matter of all personal animosity.

I saw Mr. Payne alone in the lobby, and my first words to him on the matter were: "I am sorry to proceed against so small a theatre, but you are aware that this is a question I have pledged myself to try."

"Come into my room, gentlemen," said Mr. Payne.

There we found his solicitor, Mr. Edward Levi. He appeared angry at us. I don't know why; for these little matters always turn to the advantage of the attorney.

Mr. Annesley's clerk served the notice.

"But you are all wrong," said Mr. Payne. "My piece is quite wide of the French."

"In that case," said I, "you will perhaps allow me to read your MS. before I proceed farther?"

Now, I must do Mr. Payne the justice to say, he was inclined to acquiesce. But Mr. Levi interfered.

"No; if you had applied to us in the first instance we would: but you have accused us of piracy in the 'Era' of this morning."

"I must protect our property, gentlemen."

"And we will protect ours, sir."

On this I requested them to believe, at all events, that there was no hostility in the matter; and that the proceedings, if any, would show this. This was courteously received, and we parted like Christians, and men of sense, with opposite interests.

On Monday the adaptation was played. I had two shorthand writers in the theatre taking it all down. I went to the pit myself. Mr. Levi was at the door; I saluted him in passing. Some friends of mine joined me by appointment. The play was reworded, but the whole heart of it — scenes, situations, characters — was "Les Pauvres de Paris." In the charcoal scene, the actors squatted down and died, one after another, so cannily, and with so few notes of preparation, that the audience giggled. My friends, artists themselves, laughed loud. On this I withdrew from their company, I dare say you can tell why, and sat at the back. There Mr. Levi found me all alone. He excused himself politely for not having immediately recognized me at the

door. He sat down beside me, and we had a civil conversation of some minutes.

On the fall of the curtain, Mr. Payne came forward, and told the audience an attempt had been made to stop the play by injunction; but it would be resisted. (Applause, and sympathy of the audience! "Britons never shall be slaves!" etc., etc.)

The poor oppressor sat forlorn, and saw himself first pillaged, then held up as a tyrant for not holding his tongue at it.

After the "Pride of Poverty" I went out. Mr. Levi was at the door. By this time the theatre was full; an unusual occurrence here.

I said to Mr. Levi, "You see, I have done you no harm;" meaning more than I said.

The following is Mr. Levi's reply, *ad verbum*.

"Yes! it will be a capital advertisement;" meaning my threat of an injunction. (a)

On the next Saturday the injured pirate printed a letter in the "Era," which surprised me.

He lashed the pillaged oppressor thus:—

TO THE EDITOR OF THE "ERA."

SIR,—An advertisement appeared in your paper on Sunday last, signed by Mr. Annesley, a solicitor of Lincoln's Inn Fields, announcing an intent, on the part of some one unnamed, to apply to Chancery for an injunction to restrain me from producing a drama entitled "The Pride of Poverty, or the Real Poor of London."

Notwithstanding the threat, the piece was played with great success on Monday, and has been repeated on each evening since, and the attempt even to carry out the threat has not been made.

Under these circumstances, I must beg of you, in justice to Messrs. Ben. Barnett and J. B. Johnstone, the authors, to insert this letter, that country managers may know the piece may be played any or everywhere by obtaining those gentlemen's *written permission*.

It may not be uninteresting to your readers to know the precise words of the Act bearing on this point.

In the International Copyright Act, passed to carry into effect

(a) So far is this from injuring a property, that it has often been obtained *ad interim*, at a heavy cost, by collusion, to cause publicity, soul of success.

a convention with France on the 28th May, 1852, being Cap. XII. 15 Vict., in Sec. 6 are these words: "Nothing herein contained shall be so construed as to prevent fair imitations or adaptations to the *English stage* of any *Dramatic Piece* or *Musical Composition* published in any foreign country."

Presuming that Mr. Reade or his solicitor must have known this, the advertisement must be regarded an impertinent braggadocia, and an attempt to injure me, for which I have given instructions to commence legal proceedings, unless a proper apology be made.

Respectfully yours,

THOS. PAYNE.

Strand Theatre, Feb. 20, 1857.

I just found time, in the midst of a far more serious calamity, to disown those unworthy motives my injured pillager thought proper to saddle me with.

TO THE EDITOR OF THE "ERA."

SIR, — The advertisement Mr. Payne complains of was put in by me, not to injure Mr. Payne, who I knew was determined to play his version of "*Les Pauvres de Paris*" in spite of all I could say, but that other managers might not, seeing Mr. Payne's advertisements, assume there would be no opposition to the legality of such versions. Legal proceedings, not to injure Mr. Payne, but to try a great question of international good faith, being contemplated, I took the liberty of signing my solicitor's name without his formal consent, because I had not the opportunity of consulting him, and the affair was pressing.

I offer myself to Mr. Payne and the writers of the piece as the advertiser.

The best answer to Mr. Payne's notion that I have injured the theatre is to be found in an impartial observer, "*The Era*." Speaking of the first night's performance, your critic says: "There was a full house to witness its representation, in consequence of its being understood that Mr. Charles Reade had purchased the copyright of the last-named piece, and had declared his intention to Mr. Payne of resisting any infringement, &c."

I am, sir,

Your obedient servant,

CHARLES READE.

Garriek Club, Covent Garden, 25th Feb.

Having printed Mr. Payne's polite conjectures, I may as well give the real reasons why I did not file an injunction against him that week.

In the first place I was advised that in so new and doubtful a case the Court of Chancery would send the question to law. Now this would have let me and my allies into two heavy suits instead of once. Instead, therefore, of going to law round by Equity, alias Purgatory viâ Plutus, I settled to let him play his adaptation, and destroy the authorized version ; then try the question by a suit for damages.

In the next place, I was at that moment in no state of mind to sue a Payne and catch an insect.

It had pleased heaven, at the very moment when I was defending the literary property of others, that my own copyrights, the children of my heart as well as my brain, should be torn from me contrary to law.

My stories, "Peg Woffington," and "Christie Johnstone," had been published upon an agreement known amongst authors as "the half-profit swindle." (a)

Under this agreement, an author seldom receives the remuneration of a printer's devil, or anything like it. [My share of the first edition of "Peg Woffington" was 10*l*.]

But he retains his copyright. The publisher finding at his own risk the paper, print, and advertisements of each edition, that copyright lies in pawn till the edition shall have repaid the outlay. This claim on the copyright once discharged, it becomes as free *in equity* as any other pawned article is after redemption. As to the *legal right*, that never quits the author at all.

Now, my two copyrights had not only repaid the publisher's outlay, his sole contribution to our firm, but had brought us in a profit ; when, all of a sudden, after repeatedly acknowledging me as the partner that held the copyright, or sole and exclusive right of printing, by asking permission to go into a cheap edition, which I refused again and again by letter, my publisher assumed the right of printing *malgré moi* ; sent to the printer without consulting me, and not only

(a) This term has been applied to it because, though it is a mere *partnership agreement* between the author and publisher, upon terms ridiculously favourable to the latter, the accounts rendered by the trading partner to the other partner, the creator of the copyright, are seldom *bonâ fide* accounts as between partner and partner, being generally adulterated with secret and disloyal profits on the paper, the printing, and the advertisements. The system of pillage done upon the author under this partnership is explained in facts and figures by "The New Quarterly Review."

printed my property contrary to the *Copyright Act*, but being only one partner out of two, changed the price agreed on by the firm, which was contrary to *the custom and law of partnership*. The discovery fell on me like a thunder-clap, the very day after I attended at my pillage in the Strand Theatre, viz., Feb. 17, and a correspondence followed, in the course of which the publisher made no secret that publishers under these agreements claim all that the law understands by copyright.

On this I had no alternative but to dissolve our partnership, and file an injunction to restrain him from printing my works.

This battle demanded my whole time till it was settled.

The motion was argued before the Vice-Chancellor, very early in March, and I was defeated; not upon the law of the thing; quite the reverse; nor, indeed, upon any ground taken by the publisher; but solely because I had not dissolved the partnership before my copyright was thus tampered with; and so my partner, while still my partner, had run us into fresh expenses (a), which he was entitled to be recouped. Yet how were these expenses incurred? Secretly, and *malgré moi* (*nolenti non fit injuria*, eh?): and I offered in court to recoup these expenses incurred *malgré moi*, a mode of recouping that I still think would have been more equitable, on the whole, than to let one partner both break the Copyright Act, and assume the whole powers of the firm, and this too the mere partner of straw, who, *at the moment of assuming these extravagant powers*, had not an atom of property left in the concern: his sole contribution, the copies, having all been sold, and the intellectual property, or right of creating fresh copies, being vested in the other partner, its creator and producer.

Thus was I deprived of my property, and bereaved of my children.

Whatever you that possess land could feel, were you to be

(a) I have since proved the above to be the sole ground the Court went upon in letting my partner seize my copyright upon this doubtful equity, contrary to law. I attacked the same publisher again in the same Court with the same weapon, just *before* he had time to run into a fresh set of expenses; and the Court gave me my children. So that now, thank God, and Sir W. P. Wood, I am only 200*l.* out of pocket by creating two immortal works in Great Britain.

suddenly robbed of half your family acres, that, believe me, I felt this bitter year. Whatever a mother feels, bereaved of her children, that I felt, too, besides the other. Till that year I had not a gray hair in my head. Before it was half gone I had plenty.

My friends said, "Get out of London, for heaven's sake, or they will drive you mad amongst them." I took the advice; for I felt myself beginning to disbelieve in justice, human or divine. I fled to my native woods, and shut out the very post, for many days.

And this was the other reason why I neglected the great, the all-absorbing Mr. Payne.

I returned in due course, sick at heart, but calm, and on the day of my return was honored with a call at the Garrick Club from a stout party, who told me he had two writs against me in the Court of Exchequer. No. 1, *Payne v. Reade*. No. 2, *Barnett and another v. Reade*.

I referred him to my attorney.

CAP. V.

A WRIT of summons, the first step in a suit for damages, does not disclose the nature of the injury complained of, nor the precise form of attack meditated. It merely invites you to enter an appearance in the Court whence the writ issues, and to compose yourself for the part of Damocles till "the declaration" falls on you. This may be next week, or in six months' time.

A suit at law brought, as these manifestly were, by a speculating attorney, is a serious thing if the case gives him a chance of getting a verdict. The damages may be merely nominal; but he runs up his costs to two or three hundred pounds, and you will have to pay them. This was the game in the present case, and would have harassed me; but I saw no ground of action. Slander was clearly untenable. The pirate suing the merchant, after pillaging him, need not pre-

vent the merchant from suing the pirate, after being pillaged. I therefore ignored their impudence, and in due course sued Mr. Payne for piracy of the French property. I had already notified my intention to the French authors. The following is M. Brisebarre's reply:—

CHER COLLABORATEUR,

J'ai reçu votre lettre, et le billet de banque coupé. Vous recevrez lundi les deux exemplaires "Des Pauvres de Paris."

Je suis allé chez mon agent auquel j'ai communiqué votre lettre; et on va vous écrire pour vous adresser à une personne qui habite Londres, et qui pourra vous être utile pour le procès.

De plus, la Commission des Auteurs Dramatiques va se rendre la semaine prochaine chez le Ministre des Affaires Etrangères, pour le prier de s'occuper immédiatement de l'exécution des traités avec l'Angleterre.

Donc, marchez et fermez; à vous, de cœur, et de plume

EDOUARD BRISEBARRE.

Realize my object, and my many difficulties!

What we wanted was, — 1st. A *judicial* interpretation of a well-meant but Satanic law. "A Satanic law" is an equivocating law; equivocation being, as Holy Writ has taught you, that party's main characteristic. 2ndly. Not to pay a ruinous price for it.

Now to take Mr. Payne into a Court at Westminster, would have been to risk the loss of his costs on an ambiguous law, and to insure the dead loss of our own costs; for Mr. Payne was virtually insolvent.

I sued him, therefore, for a nominal sum in the County Court.

This did not suit his attorney. There is little plunder to be got out of the suitors in the County Court.

Accordingly, on the very day of the trial, at the door of the Court, a notice was served on me that the cause was removed, by a writ of certiorari, into the Court of Exchequer.

In other words, Mr. Baron Channel, sitting in a secret tribunal, called Judges' Chambers, and there doing what *can only be done in a secret tribunal*, viz., hearing one side only, and deciding *finally against* the other party unheard, had, by a legal but unjust and unconstitutional act, robbed me in spite of my teeth, of CHEAP JUSTICE; that great boon the legislature has secured to me and to my pillaged, bleeding, pettifogger-eaten countrymen.

Mr. Levi's affidavit, on hearing which, and not giving mine a hearing, Emperor Channel, in a secret tribunal, or den of iniquity, controuled the legislature, and bereft me of cheap justice, lies before me. As the tribunal I speak in is not a secret one, "*audibimus alteram partem.*"

"That in consequence of Mr. Reade's notice and advertisement, I, E. L. Levi, consulted with counsel on behalf of the said Thomas Payne; who gave me as his opinion that the said Thomas Payne had, according to law and the construction of the Act of Parliament, a proper right to represent such piece.

"That I am advised various points of law will arise on the trial; and a special question for the jury.

"That the decision will, I believe, decide the question, which is at present undecided, as to the right of French authors to prevent their pieces being translated and dramatized to the English stage, etc."

The force of all which is, that County Court judges are *ex-officio* incompetent to deal with matters of fact and matters of law. [If so, why not hang them?]

Answer.—Some of our best lawyers are among their body. We pay them each more than the United States pay their Chief Justice; and they deal with both law and fact every day of their lives.

It happens to be an *English jury* that is notoriously incompetent to deal with the facts of any copyright case.

The foreign jurist will throw up his hands with amazement when I tell him the Court to which I was driven, by this unconstitutional tyranny, is a Court of Appeal from the County Court. Fancy in France a *Cour de Cassation* insisting on being the first to try a case, *malgré le plaintiff*. I could not keep Mr. Payne out of his beloved Court on appeal: why then should he be allowed to keep me out of my Court in the first instance? Has not one citizen more right to cheap justice *in its turn*, than another has to dear justice *out of its turn*?

The real fact is this. Applications for a writ of certiorari have never but one object,—Pillage. Everybody knows this, judges especially.

The judge who signs a writ of certiorari indulges his clique, and oppresses the suitor. He becomes the attorney's and barrister's instrument to pillage honest and often injured men, and choke them off the remedy a pitying legislature has given them.

See now whether the sequel of this *ex parte* chicanery does not bear me out. It had an immediate effect, and a distant effect.

The first effect was this: justice was denied me except at a price English justice, in matters of copyright, is not worth.

I cannot afford to give twenty times its value for any article: so I declined it at that price: and as Dictator Channel would not let me have it at less, I didn't get it at all, but was outlawed, and justice snapped up and put out of my reach — by a judge.

What could I do? I bowed to imperial power, left the insolvent pirate under its ægis, and sat down to write a novel.

This transpired, and won me back consideration.

While I was fighting for my own children as well as property in the Court of Chancery, and protecting two hundred English writers *whose case was mine*, no grain of sympathy, pity, nor common humanity came my way privately, nor was uttered in the English press, though it babbles about every mortal thing in earth or heaven.

When I stood out to fight for international justice, and for the allies who fought for me at Inkerman, the thieves of the press insulted and slandered me; the honest men of it were mute as fishes — every man Jack of them. Justice was in their heads, but not in their hearts. And when you have got a man's head, and not his heart, you have got a cocoon.

In a nation of twenty millions I was alone. I felt like a solitary camel, thirsting in Zahara for a drop of water; there are times when one drop of sympathy is as precious, and comes not to the parched heart.

I sat down to write a pack of fibs; and Anglo-Saxony owned me once more.

One or two honest fellows came about me, animated with a friendly warmth, to bid for the coming fibs. I bled them.

But at this the justiciomania revived.

Fiction, in a turn of the hand, not only paid the heavy bill I owed Equity for looking on with her hands behind her back while I was bereaved of my children contrary to law; but left a balance; and just at this moment an inquiry came to me from France about *Reade v. Payne*.

On this I wrote to explain what had taken place, and to say that, had cheap justice not been put out of my reach by a *lettre de — certiorari*, I had intended to bear all the expense. As it was, I could contribute 40*l*.

In a few days I received a private letter, to say that this offer would certainly be accepted. The formal notifications followed in due course; first from M. Peragallo, the Dramatic Authors' secretary; then from M. Maquet, their president this year; and finally from the French Government, through the consul.

But, meantime, events did not stand still. Before proceeding I took legal advice.

It was unfavorable.

C A P. V I.

THE practical lawyer soon showed me the flaw in my theory. I give his purport, but not his words: — "If you could take this before the full Court, and if the judges there had time (which they have not) to read the French piece, and your short-hand copy of Mr. Payne's piece, and compare them, you might have the ghost of a chance; even there you would have to fight against the general impression that all these Acts of Parliament restrain English liberty, and rob the public of its right to cheap ideas, and therefore are not to be interpreted liberally, but literally. But before a jury you have no chance at all. The judge is sure to refer a question of fact to them. Their thick skulls will be called on to draw a distinction; but they are not capable of drawing any distinction that is not broad as their own backs. All they will be able to see is, that you labour to prove identity, and that Mr. Payne's words differ from yours, and the characters are English in his piece, and French in yours. No! live and let live. He don't hinder you to sell yours. Why hinder the poor man to sell his? Verdict for the defendant. Plaintiff voted a litigious splitter of hairs, and would be a tyrant — if we'd let him."

Now I saw why my friend Mr. Levi had gone to that "imperium in regno" Judges' Chambers, and got me shifted from a competent tribunal, to an incompetent one with a reputation for competence: I mean incompetent in such a case as this.

When the enemies' counsel tell me, by the acts of their attorney, that so-and-so is their client's interest; and my own counsel tells me that the same thing is contrary to my interest; I don't set one hot head against those two cool heads viewing the same thing from opposite sides. I am as obstinate as a mule, not as a pig.

So I dared not launch my allies into the expenses of this suit.

Ere, however, I could advise France of the hopeless condition of affairs, relief came from an unexpected quarter—the enemy.

Mr. Payne declared: Barnett and another declared; and claimed each of them

FIVE HUNDRED POUNDS DAMAGES!

CAP. VII.

I HAVE discovered that there are ladies and gentlemen who think a suit at law begins in open court. Not exactly. Out of one hundred suits at law, not more than one comes into court. Suitors only face a jury to try *an issue*. An issue is a mutual lie direct. When A gives it B upon a fact or facts, and B retorts it, and each has the audacity to rest the cause on his veracity, then a jury is empaneled to hear evidence, and decide thereon which is the mendacious of the two. The odd ninety-nine cases are either compounded, or are stifled in the pleadings.

Those pleadings, which are still a byword of contempt (special pleadings), because years ago they used to be *tricky*, are in reality paper war in its most beautiful and scientific form. The science seems to be based on two main rules.

1. That every statement of the adversary must either be contradicted flat, or confessed (in the latter case its effect may be parried by fresh matter).

2. That nothing shall be advanced by defendant which, if true, would not be a defence to the action.

But these rules, severely enforced by the impending demurrer, exclude all the defects and vices of vulgar controversy. You can't be irrelevant, you can't advance insignificant facts. You drive, and are driven into a corner, instead of drifting like a tub on the Atlantic, as in unscientific controversy, especially literary and theological, the two sloppiest that are. Often Polemic divines have attacked and defended in folios, and never brought the matter to an issue that twelve plain men would decide: and two special pleaders have taken and done it in three sheets of paper. This is a general remark, which, not liking to hear anything, that is beautiful and wise, made a byword of reproach, and not being myself a lawyer, I thought I might make without indelicacy.

The particular application is this, that the science of special pleading is apt to prove on paper to one or other suitor that his cake is dough. On this, out oozes his bellicose fire, and he shuns judge and jury like pison and bowl: which speedily befell one of my plaintiffs, Mr. Payne; my special pleader gave him such a foretaste of his death warrant, that he turned tail, and vanished for ever from unchristian litigation in plumes of snow.

BARNETT AND JOHNSTONE v. READE.

The cream of the declaration, which I now extract from the document itself, is to this purport:—

"That the plaintiffs are and were the authors and proprietors of a dramatic piece called 'The Pride of Poverty,' etc., a fair imitation and adaptation of a dramatic piece published in France, called 'Les Pauvres de Paris,' and were entitled to the sole liberty of representing the same. Yet the defendant, well knowing the premises, but contriving to injure the plaintiffs, falsely and maliciously printed and published (here my advertisement), meaning that the plaintiffs were not the authors, and by means of which the plaintiffs were prevented from disposing of their pieces to *divers theatrical managers*, who might and otherwise would have purchased, etc.

"And the plaintiffs claim five hundred pounds."

THE DEFENDANT'S PLEAS.

1. "Not guilty.
2. "That the plaintiffs were not the authors and proprietors of the said dramatic piece, nor entitled as alleged."

Here the special pleader somehow or other omitted to add, —

"An author, 'tis a venerable name.
How few deserve it, and how many claim!"

3. "That before the manager of the Strand Theatre advertised a version of the dramatic piece called 'Les Pauvres de Paris,' the authorized version of the said dramatic piece, and also the original, had been entered at Stationers' Hall by the defendant, and that the said version so advertised by the said manager was not a fair imitation and adaptation, etc., but a piratical version, etc., within the meaning of an Act passed in the 15th year of Vict., etc., etc.; and that at the same time when the alleged offence, etc., injunctions were being prepared against the lessee and manager, etc."

DEMURRER.

"And the defendant further says that the said declaration is bad (a) in substance."

PLAINTIFFS' REPLICATION.

"The plaintiffs join issue on the defendant's pleas.
"And the plaintiffs say the declaration is good in substance."

I will now try and explain why this attack was at first welcome to me. It raised exactly the issue I wanted to raise [vide my third plea, on which they joined issue], and brought the statute and its interpretation into court, with this notable difference in my favour; if I had sued Payne, and he had beat me on this same issue, he would have gained a verdict and costs; whereas, in this action, it could advance Barnett and another but little to beat me on the statute: they had yet to prove that I had attacked their doubtful property

(a) One ground of demurrer (amongst others) is that the alleged libel is actionable (if at all) by reason of special damage; and no special damage is alleged.

wantonly and maliciously, and not *bonâ fide* in defence of an undeniable property, endangered by Mr. Payne's advertisement. But this, I thought, they could not prove. And I felt sure I could prove the contrary.

I wrote therefore into France, in high spirits and base French, and explained the adversaries' game and ours to my allies.

The Gog and Magog of the Courts are Law and Fact. I retained eminent counsel to fight the points of law; for the facts, *i. e.*, the evidence of piracy, I retained myself. Woe be to the man who trusts to his attorney to get up his case. It is the attorney's duty: it is the client's interest.

While I was working like a horse, diving into back slums for evidence, and writing to everybody I did n't know for evidence, ransacking the Chamberlain's office, penetrating behind the scenes of journals, working on the briefs, and doing a dozen other things, that none but zealots like me ever do, I received encouraging letters from France, which were the more welcome that my allies here were full of gloomy forebodings, and chilled me with their low estimate of human justice.

With the exception, however, of my correspondents MM. Maquet and Brisebarre, no Frenchman seems to have been able to comprehend, at all events from my explanations, which unluckily I had given them in French, that the tables were now turned, and the issue raised by the pirates suing me.

My good friends have studied human nature too well not to know that "*Odisse quem læseris*" is one of its most cherished sentiments: but, for all that, in their country the injured party is not *the defendant* in actions for damages; nor indeed is he in ours, unless he happens to be an honest author, or the representative of honest authors.

It appears that the French Government, with its usual liberality towards the immortal arts and their professors, and perhaps accusing itself of an excess of good faith and loyal confidence in having signed, without suspicion, a literary treaty with the representatives of Anglo-Saxon shopkeepers, a tribe that, in the fine arts, would cheat their mothers or their God (if they could) without a twinge, had offered to sustain the entire cost of the coming trial: but the French

dramatists had declined, choosing to bear the expenses themselves, save and except the 40*l.* I had offered. This information was formally conveyed to me by the Minister of Foreign Affairs, through the consul.

Not to interrupt my narrative too much, I transfer that and other original communications to the Appendix.

I translate one cheering communication : —

6th August, 1857.

MY DEAR READE,

YOUR courageous attitude in the coming trial has called forth from the Committee of Dramatic Authors and Composers, a lively acknowledgment. If the cause of literature is to triumph, the triumph ought to be due to the writers themselves appealing to their rights, and to the good faith of the English nation.

Wherefore the Society, of which I have the honour to be President, has decided that the costs of the trial shall be defrayed by the French authors, and the part you offer to take in the affair will be a new title to the esteem and gratitude of your brethren on this side the Channel.

We accept, therefore, both your tribute and your aid. Count on being followed to the field of battle by all our sympathies, and by our energetic co-operation.

For, I repeat, you sustain in this matter the cause of the glorious and honourable part of literature. Your example will certainly draw after it the approbation of your fellow-citizens.

Receive, my dear Reade, the assurance, etc.

MAQUET.

What would I not have given for such sentiments as these from any English pen, at any part of this business !

Payne had been defended against me by Mr. Levi, who is a Jew. But the attorney in *Payne v. Reade*, and *Barnett v. Reade*, was a Mr. Edward Kelly Harris ; who conducted his case like a cat : put the venue in Surrey of an offence committed in Middlesex, in order to drag us out of town and make the trial more expensive and uncomfortable : refused a copy of Payne's piece, and, when compelled by a judge's order to furnish us one, made trumpery delays, and charged 3*l.* 15*s.* for the copy, vilely done ; and in all things fought us like a pettifogger, and not like a man ; as if battles royal were to be won by scratching.

I met Mr. Levi, by accident, in the Strand : so I asked him how I had come to lose him for my opponent.

"Oh," said he, "I don't approve the proceeding; I was in Paris when the writs were served."

"Hallo!" thought I, "this is dismal. The Jews would not dirty their fingers with this case: so Barnett and another have had to find a Christian attorney not so nice."

At last the trial drew near; and then for four days I was in purgatory, soul and body; obliged to hunt up three counsel, who were continually flashing to and fro London and Croydon; and get them to one place for consultation: it was like chasing three wills-o'-the-wisp into one corner; the tiresome devils!

Strange to say, when we had got them, they were worth having (things that cost so much trouble generally are not); and gave the case unusual sympathy and attention.

That very kindness, however, took a discouraging form. Mr. James, in particular, shook his head over his brief, and gave it as his opinion that the statute, as nullified by the proviso, was a rotten reed; and the case had better be fought on the other pleas. He, however, begged me to furnish him with a close comparison of the scenes and incidents in the authorized version and Payne's, and above all, every passage, however small, where the very words of the original play had been pirated: and proposed another consultation.

At this second interview, Mr. Lush observed that the plaintiffs in their declaration did not say they had registered their piece at Stationers' Hall, before serving their writ: if they had not done so they must be non-suited. This was doubted by the other counsel. But Mr. Lush stood to his point. "The plaintiffs had assumed copyright, and were suing me for having slandered their title. They must show their statutable title in court, as in any other proceeding for the protection of literary property." Mr. Lush will forgive me for putting his good law into my bad language.

It was agreed, at all events, to elicit this fact in cross-examination.

The trial was next day, and I went down to Croydon with all my witnesses.

To my horror the railway carriages overflowed with hooked noses, going to Croydon; and centre of the aquiline throng was my friend Mr. Levi, radiant as Apollo. "Tunc manifesta fides," etc.

Ah, the subtle Orientals! They had been ashamed to

appear in it, but not to be in it. But now that the trumpet sounded, their martial ardour overpowered all other sentiments, and they burst on us like Judas Maccabeus.

We got down to Croydon: our case had been put off, *without notice*, to suit the convenience of some counsel or other. This piece of insolent cruelty and oppression cost the suitors, between them, at least sixty pounds. This is one way the expenses are run up in England. We went back smarting under this cruelty, and crying, "Oh, the poor English suitor!"

The next morning I drifted down again to Croydon, on a tide of hooked noses. I groaned in spirit, and pointed out the sinister phenomenon to my brother. "I don't like it," said I; "I have a superstition; I hate fighting the oppressive people: besides, they live in these courts — swim about them like aquiline sharks."

"The worst lawyers in the world," was his reply. "They are clever at teasing and pettifogging, and frightening fools into compounding suits; but if they venture into Court we always beat them. They can't understand a point of law: have n't heads for it. Besides, they always forget that there is such a thing as justice, and that our courts invariably aim at it, and very seldom miss it." And he turned up his Anglo-Saxon proboscis at the subtle Orientals.

"You have no defence to this action," added this cheerful ally; "but as they have no ground of action it does not much matter — here we are." And we entered a herd of bullocks.

CAP. VIII.

CROYDON is a vile hole at best; but this was fair day, and all the avenues to justice blocked up with bullocks.

Heavens! what a place it looked to try the interests of immortal literature in: narrow, sloppy, greasy, rustic, bovine.

At last we wriggled through the sea of living beef into the Court. Ours was the first case. Not having knocked out anybody's brains, or cut his throat, we excited no inter-

est in Anglo-Saxon minds — happily : for thus we got a good seat in a cool Court : “*sic nos servavit Apollo*” from the fœtid odour of accumulated Surrey snobs : their souls were in the bullocks at the door, and their hands feeling them all over in search of the fat. I settled myself in a seat, and a heavenly calm came for the first time this many days over my vexed spirits ; the actual fighting was at hand.

My ruin impended over me as I sat ; and I knew it. A verdict obtained must be malice proved. I could not receive French aid to avert the personal consequences of having so misrepresented that great nation and its sentiments. I should stand with them ; but fall alone.

But ruin, or no ruin, I had room for no feeling, and did feel none, but the holy, balmy, peaceful joy of fighting, after the botheration of the trenches.

“ ——— concurritur, horæ
Aut cita mors venit aut victoria læta.”

The jury were assembled, but not sworn.

There was a little silence of expectation. The judge entered by his side door ; the audience rose and fell : comic song — “*Kiss the Book !*” and Mr. Montague Chambers, Q. C., opened the plaintiffs’ case.

“ This was an action brought to try a most important question connected with dramatic literature, and which depended upon an Act of Parliament which had within the last few years been passed, with the view of giving authors property in the works of their imagination and of their brains, just as much as if such property were an estate. For some years there had been in this country copyright in the works of literature, and it had of late been considered just and right, owing to the extensive communication which existed throughout all parts of the civilized world, that those rights should be extended to those nations with whom we might be at peace, and, amongst others, an international treaty had been entered into between France and England. At first it related to general works of literature but it was afterwards applied to dramatic compositions. This action was founded on the last Act of Parliament on this subject, which was passed in the fifteenth year of the present reign, entitled ‘*An Act to enable her Majesty to carry into effect a convention with France on the subject of copyright, and to extend and explain the International Copyright Act.*’ In that Act there were the words (the 6th section) which enacted the following important provision : — ‘*That*

nothing herein contained shall be construed so as to prevent a fair imitation or adaptation to the English stage of any dramatic piece or musical composition of any foreign country,' so that the right was preserved to dramatic authors in this country if they should think proper to adapt or imitate any dramatic piece which might have been composed or written in France, and then it carried the right to the profits that are derivable from the authors having so exercised their talent. The present action was founded on that provision in the Act of Parliament. The plaintiffs were both of them actors and dramatic authors. There appeared, in the course of the present year, in Paris a dramatic piece, which became exceedingly popular, and attracted a great deal of attention. It was called 'Les Pauvres de Paris.' The plaintiffs got that piece, and, having read it, they were required to prepare a dramatic piece upon the same foundation, called 'The Pride of Poverty; or, The Real Poor of London;' and what the jury would have to consider was whether that was a fair imitation or adaptation to the English stage of the dramatic piece published in Paris, called 'Les Pauvres de Paris.' Having composed that piece as a fair adaptation or imitation of that which was so successful in Paris, they offered it for the acceptance of managers, and Mr. Payne, of the Strand Theatre, accepted the piece, and it was produced on the 16th of February in the present year. On Saturday, the 14th of the same month, Mr. Reade went to the Strand Theatre, and there performed certainly a strange and entirely new character, for Mr. Reade, he *believed*, was an author himself. He served upon the manager a notice of his intention to make an application to the Court of Chancery for an injunction, and that notice purported to be signed by Mr. Annesley, who was a respectable attorney in Lincoln's Inn Fields. Besides that, he had caused an advertisement to appear in 'The Era,' a newspaper very well known as the organ of the theatrical profession, it being extensively circulated, and that advertisement was the principal object of complaint in the present action. The advertisement was as follows:—

Mr. Chambers then read my advertisement.

The judge (Chief Baron of the Exchequer) asked for a copy of the "Era," containing it, which was handed up to him.

Mr. Chambers resumed —

"That notice was served on the Saturday, and purported to be signed by Mr. Annesley."

Mr. James — "That was a mistake which we shall explain presently."

Mr. Chambers — "The natural effect of that was somewhat to alarm Mr. Payne, and more to alarm a more excitable race. The

performers on the stage became dreadfully alarmed at the threat of an injunction, and it was only after the greatest possible persuasion that they were induced to go on the stage, having the fear before their eyes of the tipstaff of the Lord Chancellor, who might come to carry them off to the Court of Chancery. The result was to throw a great damp on the success of the piece and the exertions of the actors. Another natural effect of that notice was, that other managers were prevented from embarking in the speculation, as they might have been involved in the harassing proceedings in Chancery. The jury were aware that the authors of dramatic pieces in this country, under another Act of Parliament, brought in by a lamented author and judge, the late Mr. Justice Talfourd, were entitled, by virtue of their copyright, to receive from all managers throughout the country a small sum every night that their pieces were played. Mr. Reade's advertisement, of course, prevented that profit reaching the plaintiff. Upon Mr. Payne communicating with Mr. Annesley, whose name was attached to the notice, that gentleman at once said that his name had been so attached without his authority, and that no application to Chancery was intended to be made. Thereupon Mr. Reade wrote the following letter to 'The Era':—

The Chief Baron — "What copy of the 'Era' is that?"

Mr. Chambers — "The 1st of March, and the letter was as follows:—"

Here my letter was read, and the Chief Baron examined it in the paper.

Mr. Chambers resumed —

"True: it would be seen he did not intend to injure Mr. Payne, but the plaintiffs."

The Lord Chief Baron suggested the best course would have been to refer the two pieces to an arbitrator, to settle whether there was a fair imitation.

Mr. Chambers could not accede to that course; this was a case of slander of title.

The Lord Chief Baron — "It is not a case of slander of title. It may turn out not to be a slander at all. It is certainly not slander of title."

Mr. Chambers proceeded to prove that it was.

The Lord Chief Baron (interrupting him) — "*I very much doubt whether it is actionable at all.*"

Mr. James (for the defendant) — "If the defendant was interested, and acted *bonâ fide*, libel of the title will not lie."

The judge bowed assent.

On this a legal argument ensued between the counsel, in the course of which Mr. James reminded the Court that I had acquired a property by complying with all the statutable conditions ; and offered the stamped copies of the several registries. Mr. Chambers declined to admit them as evidence, unsupported.

I understood the judge to say they were admissible as *prima facie* evidence. They were inspected. Mr. Chambers insisted this was a libel of a title, and cited the parallel case of a man going to an auction-room, and spoiling the sale of an estate by proclaiming that the title to it was faulty.

The Lord Chief Baron appeared not to consider the two cases parallel. He went to the law of patents for the parallel. "I take the law to be, that if a man has a patent, and another man takes out a patent which the first patentee considers an infringement of his rights, he has a right to publish *that*, provided he does it *bonâ fide*, and to caution the public against the washing, or mangling machine, as the case may be."

Mr. James — "The last is very applicable to this case, my Lord." (a) (Laughter.)

The case proceeded, like a wounded snake.

Mr. John Beere Johnstone, one of the plaintiffs, was examined by Mr. Wordsworth.

"Stated that he was by profession an actor, and also a dramatic author. In the course of his time he had produced a great many dramatic pieces. At the commencement of the year he heard of a piece called 'Les Pauvres de Paris.' He had a conversation with Mr. B. Barnett on the subject, and he obtained a translation of the piece. He never read the French piece himself, as he did not sufficiently understand French. He prepared the English piece. He did not do it entirely from the French piece, but from an idea of his own to a great extent. The piece was offered to Mr. Payne, and it was performed on the 16th February." The witness was asked if there was not great consternation amongst the actors.

The Lord Chief Baron — "That really has nothing to do with the case, and I will not allow the question to be put. We are not trying the conduct of the actors.

(a) Implying that the pirates had mangled the French piece.

Examination continued — "He saw 'The Era,' of the 14th of February."

Mr. Wordsworth — "In consequence of the publication of the notice in 'The Era,' were you prevented negotiating with other managers?"

Witness — "To a very great extent in town and country."

The Judge — "Unless the managers are named I cannot take that in evidence. You cannot go into that fact at all. You can only ask the jury generally what damage has been sustained."

Mr. Wordsworth — "What I wish to ask is, whether, in consequence of that advertisement, he was prevented from applying to managers?"

The Lord Chief Baron (rather sternly) — "I am of opinion you are not entitled to put such a question; you can only give an unlimited number of anonymous persons; and what does that amount to?"

Mr. Johnstone being unable to specify by name the managers that had refused his piece on account of defendant's advertisement, gave evidence as to the usual custom, that when a piece was successful in London it was played in the country, and that brought a considerable sum to the author.

Cross-examined by Mr. James — "You play the heavy fathers, I believe?"

Witness — "Yes, the heavy fathers and the light. (Laughter.) Sometimes play the heavy fathers and sometimes the sons."

"You have, like us, to play anything?"

"You play much better than I can, sir."

"I certainly am much more adapted for the heavy father. (Laughter.) But Seneca cannot be too heavy, nor Plautus too light for you?"

"Admitted, sir."

"Is the Strand Theatre the property of Lawrence Levi?"

"He has nothing to do with it as far as I know."

"Will you swear that?"

"Never during the time I have been a member."

"Is Mr. Payne in Court?"

"Mr. Payne is the manager, and has been for some time."

"Will you swear that Levi had nothing to do with him?"

"I have seen him there. I have seen him in front."

"Have you seen him behind?" (Laughter.)

"I don't remember having seen him behind."

"Is it his son who brings this action?"

"Certainly not."

- "Is he not the attorney in this action?"
- "Certainly not."
- "How many nights was this piece played?"
- "I believe for three weeks."
- "Was it played afterwards at the 'Victoria'?"
- "Yes."
- "Did you see it?"
- "I did."
- "What did you get for it?"
- "Two pounds."
- "When did you sell it?"
- "I sold it to the 'Victoria' manager: to Mr. Young."
- "Attend! please! When did you sell it?"
- "After the second week at the 'Strand.'"
- "How long did they play it at the 'Victoria'?"
- "I think the same number of nights as at the 'Strand.'"
- "It was damned, wasn't it?"
- "Certainly not."
- "Would twelve nights be the ordinary career of a piece of that kind?"
- "Certainly not; but the piece was originally produced there, and was not got up with that expense which an original piece would have been. Sometimes pieces run for a whole season. This was merely a time-serving novelty."
- "Did you register your piece at Stationers' Hall?"
- "No, sir."
- Mr. James called the attention of the Court to the words of the Act of Parliament, which required that a work should be registered to secure a title.
- Mr. James — "Who translated this piece?"
- Witness — "It is not a translation."
- The witness went on to state that a translation was handed to him. He read it and then returned it, and then he wrote the English piece. He had never seen Mr. Reade's translation. He was then cross-examined with regard to the similarity of the two pieces, and a considerable time was occupied by the Court, counsel, and the jury, comparing the English and French pieces.
- Mr. James — "I see that in the second act you make the characters suffer from the effects of charcoal. Is not that in the French piece?"
- Witness — "It may be; it is a very common thing in Paris."
- "Well, then, I see that Ravenstone talks about having four ounces of beef; is that in the French piece? Have you got any beef in the French piece?"
- "I don't know. It is a similar sort of scene to the French piece, but the language is not a translation."
- "No; for I see that Ravenstone says, 'What a — lot of draughts there are. (Laughter.) Here are holes big enough to stop a bullock.' (Laughter.)"

The Lord Chief Baron — "Would it not be better for the jury to go up to town and see the French piece acted, and then see the English piece?" (Laughter.)

Mr. James — "Is the charcoal discovered on the stage?"

Witness — "Yes."

"I see that Ravenstone has a pistol, and he has in the French piece, has he not?"

"Yes."

"He is the villain of the piece, is n't he?"

"No; I make the villain of the piece a banker."

"A banker, eh — a British banker, of course. (Laughter.) I see in the piece that two females sink down in the charcoal. Do they sit upon it?"

"They inhale it."

"Then the last act winds up with these lines, spoken by Martha —

'Oh, may we say that all is right,
And reckon on repeat to-morrow night.'

That's not a translation — that's your own, I suppose?"

"Yes, that's mine."

"And you reckoned on repeat for twelve nights?"

"Yes."

"This Ravenstone seems to have been a sensible sort of fellow, for he sticks to the beef?"

"That is one of the incidents."

"There is no beef in the French piece?"

"I don't know."

Mr. Chambers — "Is there any *bouilli* in the French?"

Witness — "I don't know, sir."

The Lord Chief Baron — "It is what is called a mechanical equivalent."

Mr. Benjamin Barnett was then called and examined by Mr. Chambers. He stated that he obtained a copy of the French piece, and made a literal translation of it. He took the translation to the manager of the Strand Theatre, but it was found that the piece was much too long, and the manager suggested to witness to put himself in communication with Mr. Johnstone, so that they might make up a piece between them. The translation was accordingly handed to Mr. Johnstone. The plot of the French piece was altered altogether, and new characters and scenes created, so as to make the English piece almost an original piece.

At this point the learned judge suggested that the pieces should be submitted to some gentlemen to be named to examine them, and see if a fair imitation had been made.

Mr. James contended that there was no right of action at all.

The learned judge proposed to the counsel, on either side, to withdraw a juror.

The defendant, through his counsel, declined to accede to that course.

Mr. James pressed for a nonsuit on the points raised, especially the non-registry of the plaintiffs' piece.

After some discussion, the Chief Baron said he should nonsuit the plaintiffs, but they might raise the several points of law again before the full Court in term. It was then proposed by the plaintiffs' counsel, that should the nonsuit be overruled, an arbitrator should be appointed (I forget his name; some barrister) to compare the two pieces, and decide upon the statute whether the plaintiffs' was a fair imitation or not; and, if the former, what damage, if any, he had sustained.

This arrangement was consented to, but not by me. It was ridiculously unfair to me, and I protested against it in Court, and never consented to it, and never would have consented to it. This was to undo half the victory I was sure to win by fighting the facts out before this jury. And as to the law, no barrister in creation shall ever JUDGE me, nor my allies. France, in my hands, shall never accept for law any Englishman's interpretation of a statute, whose interpretation does not bind the kingdom.

The plaintiffs were now nonsuited, which was contrived, selon les règles, with simple duplicity. The crier of the Court invited them, in a loud voice, to come and sue me.

They were instructed not to answer.

On this the Court, having in vain awaited their reply, was disgusted, and nonsuited them, not because they were there without a leg to stand on in law, but on the imaginary ground that they were not there in the body: a legal fiction; the beauty, probability, and usefulness of which are obvious. Ah! no wonder the lawyers despise *our* little attempts at this art.

Plaintiff and defendant went back to Croydon, each with his oyster-shell. The aquiline profiles of the oppressive people were supernaturally elongated, like a Swiss nut-cracker open; and my heart was alternately boiling and freezing. The balmy peace and comfort that stole so sweetly over me during the blessed, blessed hour we were fighting it out like Christians, was faded and gone. In the moment of victory I had been fobbed out of my judge and my jury, and an arbitration hung over my head.

CAP. IX.

THE plaintiffs' case was heard, and published in all the papers; the defendant's was reserved for a secret tribunal. But this one-sided justice is not irreparable like a writ of certiorari obtained *ex parte* on an attorney's *imaginavit* in a secret tribunal. I am about to show that if the International Copyright Act is not a mere juggle, there was a defence to this action upon the merits.

This will put the absolute necessity for fresh legislation in a clearer light than I have yet done.

EVIDENCE FOR THE DEFENCE.

The advertisement was *bonâ fide*.

Mr. Annesley to depose that he never replied as stated by Mr. Chambers: his letter-book to show that he never told them an injunction was not contemplated, nor said a syllable on the subject. Also his day-book, to prove that proceedings of that nature were contemplated and discussed by him and defendant on March 13, the day before defendant's advertisement appeared.

AGAINST THE ALLEGED MALICE.

The meaning of these words, "opposition would be made to the legality of *such versions*," had been distorted. It is not usual for two London theatres to play the *same version* of a French piece. What defendant feared was that each theatre, seeing the authorized version defied, would produce its own version (evidence to this custom), and tear the French property to rags.

At the time of the alleged personal malice, defendant would swear he was ignorant that the plaintiffs' existed. His advertisement was defensive, and part of a systematic support of French rights, on public and respectable motives.

It began in 1851. It was in Oct. 16 and 17, 1856, he first advertised that he would restrain all unfair adaptations of "Les Pauvres de Paris" (the copies of the "Times" in Court), and announced the authorized version. In the preface to the same he repeated the threat in general terms, and sent copies to the London theatres. That the manager of the Strand Theatre, whose announcements (poster and small bill in Court) drew forth the advertisement, knowing all this, and the expenses incurred by defendant under the Act, held no communication with defendant before putting out his poster and small bill.

That a respectable manager had previously communicated with defendant, and paid 20*l.* to him for permission to adapt "Les Pauvres de Paris" (Agreement, Creswick and Reade).

That defendant was not sole proprietor of "Poverty and Pride," but had foreign partners, whom he was bound to protect with zeal in this country (original assignment).

That in such matters as this an advertisement can only be parried by an advertisement. That defendant had a sincere conviction piracy was intended, both because the manager had not communicated, and also on account of the character of the theatre, which had previously pirated *him*, and *other dramatic authors*, and because his English title was tampered with on the bill. To prove the previous piracies, the secretary of Dramatic Authors was in Court with his books and letters, to show that this manager had been more than *once struck off the books of the Society for what authors call frauds on authors*. That he had evaded payment for pieces written for him: one of the authors in Court to corroborate. That he had repeatedly played piratical and unlicensed pieces: in particular "The Châlet," a piratical and unlicensed version of "The Swiss Cottage," and "Forget and Give," a piratical and unlicensed version of the defendant's piece "Village Tale" (play-bills in Court, and also stamped certificates from the Lord Chamberlain's Office, showing these pieces on said play-bills to be *unlicensed*). By this last act, the theatre, where defendant saw the seeming piratical announcement, had outlawed itself, and could have been closed at any moment. Mr. Payne had been in hot water with the secretary for playing defendant's piece, "Ladies' Battle," without permission. Defendant himself had, some months

before the alleged offence, received a notice from the secretary (letter-book), not to let the Strand Theatre play any piece of his, on account of Mr. Payne's unfair proceedings.

[In short, defendant's malice amounted to this: he saw a rat's tail peeping out of a notorious rat-hole, and smelt a rat.] The title, "The Pride of Poverty," which defendant saw at the mouth of the rat-hole, was *nonsense*, and a manifest tampering with his own title, "Poverty and Pride," and was in no way suggested by the words "Les Pauvres de Paris."

As a further proof that defendant's suspicions on this head were not misplaced, the proprietors of the adaptation no sooner got across the water, a little more out of his sight, than they advertised their piece thus in the poster of the Victoria Theatre:—

On MONDAY, TUESDAY, WEDNESDAY, & FRIDAY, a Powerful Drama, by Mr. J. B. JOHNSTONE,
 Author of "The World we Live in," entitled

PRIDE AND POVERTY; OR, THE REAL POOR OF LONDON.

Prologue.—THE BANKER.

Reckless Rashbrook .. (The City Banker — a Man with a heart of Stone, with only one thought, Gold and Fraud) .. Mr T. E. MILLS
Martin Ravensstone .. (his confidential clerk — with a heart to do good, but not the will to withstand Temptation) .. Mr J. H. RICKARDS
Captain Wertheysen Ranger .. (an Australian adventurer — the Banker's Victim) Mr G. PEARCE *James* .. (the Bank porter) .. Mr H. HUDSPETH

ACT 1st.—A LAPSE OF 15 YEARS.—LONDON.—LIFE'S VICISSITUDES.

Mr Reckless Rashbrook (the Millionaire of the West) .. Mr T. E. MILLS
Martin Ravensstone (the Mendicant) .. Mr J. H. RICKARDS
Frederick Ranger (the Son — the Dupe to appearances) .. Mr HENDERSON
George Normanton .. (a noble Son of a noble house — whose pride is in his looks and his wealth on his back) .. Mr FREDERICK BYFIELD
Mr Peter Stillpod (a perambulator and dealer in books, but not Stationary — often compelled to move on) .. Mr CHARLES RICE
Look Sharp .. (Policeman No. 01 — terror to all that are stationary, moving but little himself) .. Mr HITCHINSON *Market People, Visitors, &c.*
Mrs Ranger .. (the Widow — with a kind heart and empty pocket) .. Mrs HENRY VINING
Clara .. (her daughter) .. Miss JANE DAWSON *Ella Rashbrook* .. (the Banker's Daughter) .. Mrs J. H. RICKARDS
Martha Mag (one of the Lower Classes, with very high principles) .. Miss EMILY THORNE

Act 2.—London by Night—Want and its Victims.

Reckless Rashbrook (the Wolf in Lamb's Clothing) .. Mr T. E. MILLS
Martin Ravensstone (a travelling Merchant: viz. an itinerant dealer in Patent Blacking) .. Mr J. H. RICKARDS
Frederick Ranger (the devoted Son — one of Fraud's Victims) Mr HENDERSON *George Normanton* (his Friend in Adversity's hour) Mr F. BYFIELD
Peter Stillpod (a Rising Man in the World) .. Mr CHARLES RICE
Mr Tuteall (a Pawnbroker) Mr BRUNTON *Mr Sweater* (a Jew Outfitter) Mr ROBINSON *Crossgrain* (a Railway Traveller) Mr F. H. HENRY
Mrs Ranger (the broken-hearted Mother) .. Mrs HENRY VINING
Clara (one of Life's Victims) .. Miss JANE DAWSON
Martin Stillpod (Married and Settled) .. Miss EMILY THORNE
Ella Rashbrook (the Discarded) .. Mrs J. H. RICKARDS *Railway Passengers, Hawkers, &c.*

and also in the "Era," March 15, produced, which is direct and undeniable piracy of the defendant's *English* property, and was duly avoided by the honest adapter ("Fraud and its Victims").

Under a title so piratical these plaintiffs produced the scenes, situations, characters [with one exception], (a) plot, and leading idea of the protected piece, and kept close to the topics of the dialogue; discolouring the language only [Richesourcing it]: which was to take all the essentials, and only spare the non-essential part of a melo-drama: and they took even the language in one or two places; but very rarely.

THE PLOT.

Mr. Collins, a dramatic critic, to prove that he attended the first representation of Mr. Payne's piece: that he was unacquainted with the defendant, and wrote the following critique for the "Morning Chronicle," which appeared in that paper 17th Feb. [The journal produced.]

STRAND THEATRE.

The first step towards testing the efficacy of the International Copyright Act, with regard to dramatic literature, was taken last night at this theatre. For some time past a piece has been running in Paris called "Les Pauvres de Paris," and it has acquired additional celebrity, at all events in this country, from the fact of Mr. Charles Reade, the English dramatic author, having purchased the copyright of the French authors, and his having made an announcement to the theatrical managers of this country that he will resist any attempt to produce the piece in England without his authority. In the face of this announcement, a translation was produced at the Strand Theatre last night, under the title of "Pride and Poverty; or, the Real Poor of London."

Mr. Charles Reade would appear to mean mischief in his threat against the English managers, for last night in the stalls of the Strand Theatre, two short-hand writers were stationed for the purpose of taking down verbatim the piece as it was played.

The drama commences with a prologue, the scene of action being at the house of Vernon, a banker, who, on the eve of a fraudulent bankruptcy, receives a deposit from a shipwrecked emigrant (Ranger), and devotes the property of the dying man to his own

(a) Peter Stillplod, which character is a fair adaptation of Bigot in the original.

purposes. This act is observed by his clerk Ravenstone, who in the confusion arising from the death of Ranger in the banker's office, secures the acknowledgment and receipt intended for the family of Ranger.

The first act introduces us to the family of the late Ranger, who are in the extreme of ruin, although the mother has kept from her children the knowledge of her situation, having had for her confidant and adviser a faithful and attached friend and domestic, Martha. We here meet with the clerk Ravenstone, who by a life of dissipation is reduced to beggary, and is relieved by the family he has assisted to wrong, the parties being perfectly unknown to each other. Another character is here brought upon the scene, a George Normanton, who has all the outward appearance of wealth, is literally without a dinner, but is invited to one by the family, who have to make sacrifices to obtain it, at the usual resource, the pawnbroker's. A meeting takes place between Vernon and Ravenstone at this juncture, and the clerk is invited to the present residence of the banker, and, by a ruse of Vernon, accused of robbery, and the act terminates with the apprehension and accusation from Vernon of the clerk Ravenstone.

In the second act the family are still more reduced, and the son strives to obtain a living as a casual porter at the railway, to which neighbourhood both mother and daughter come for the purpose of obtaining a trifle for their necessities, and find the son overcome by weakness and privation; and driven to desperation by their joint sufferings, they determine to commit suicide. Of course this does not take place; they are preserved, and the banker compelled by the executive and the ex-clerk to make restitution, and all ends happily.

There are other characters mainly conducive to the working out of the plot, such as Peter Stillplod, a travelling bookseller, and others that assist the drama to its finale.

The piece is thoroughly French in every respect (a). It is most effectively played by all engaged in it. At the fall of the curtain, in answer to loud calls from the audience, Mr. Payne came forward and announced that he had been threatened with Chancery proceedings, but he was determined to produce the piece in spite of such threat, and he believed the public would support him in his determination. He said the most effectual answer that would be given to the threat of Chancery was this: that the piece would be played at every theatre in London.

The English authors of the piece were then loudly called for, and Mr. Benjamin Barnett and Mr. J. B. Johnstone appeared before the curtain.

(a) Would a fair adaptation produce this effect on a spectator's mind?

Planterose, the clerk (to Villebrun) — " Dans les affaires il y a deux moyens de s'enrichir, l'un pénible, lent, plein de fatigue ; l'autre facile, rapide, etc."

Ravenstone, the clerk (to Vernon) — " There are two roads to fortune, one rough and rugged : now, there is a more pleasant and shorter way — "

In the subsequent business : —

The French Piece.

" Votre nom, Monsieur ? "

" Pierre Bernier."

Planterose (écrivain) —
" Bordeaux, 30 Oct. 1840."
(Se levant et remettant la plume à Villebrun, etc.)

Rochefeuill — " Quelques petites affaires à régler."

André — " Ce que c'est d'hériter."

Planterose — " Quel est ce portrait ? "

André — " C'est celui de mon père."

Planterose — " Son père, vous êtes — "

André — " André Bernier."

Planterose — " Les traits, le regard de l'autre."

André — " Auriez-vous connu mon père ? "

Planterose (à part) — " C'est son fils."

The Plaintiffs' Piece.

" Your name, sir ? "

" Ranger."

Ravenstone (writing) —
" Willwash, March 20, 1840."
(Hands receipt to Vernon, etc.)

Normanton — " Oh, a little matter of business."

Frederick — " It is a fine thing to be wealthy."

Ravenstone — " Whose portrait is that ? "

Frederick — " The likeness of my father."

Ravenstone — " Your name, then is — "

Frederick — " Ranger."

Ravenstone — " Every feature of the face the same."

Frederick — " You knew my father, then ? "

Ravenstone (aside) — " It's his son."

There are several more, as close as any of these, scattered about the play. But they are not *numerous* ; and therefore, taken alone, it would be hard and unreasonable to call them piracy. But where the title is also taken or tampered with, and the whole pictorial invention, and the characters and the situations, and the *topics* of the dialogue, and the stage business, in short, all that patentees protect by specification and drawings ??

Besides the above, are far more numerous instances of what I call "sloppy translation."

" Les plumes des oiseaux crédules, qui sont venus se

prendre à la glu de votre crédit," is thus rendered — "or starts again to pluck fresh pigeons, and stuff his pillow with the feathers of the foolish birds."

In "Les Pauvres de Paris" the banker, an hour before open bankruptcy, calmly bids his clerk receive a heavy deposit from his visitor; the clerk, as he goes to his desk, says (aside), "Oh, le beau voleur!" which told upon the French audience.

Mr. Johnstone pirated this situation and this business to the very letter; but rendered the line thus — "Well, this is the very essence of villainy!" which, being as feeble, artificial, and undramatic, as the French line is the reverse, missed fire as a matter of course. Does it follow that this, and many such examples of the wishy-washy in this piece, are adaptation, and not loose translations?

Dishonest blockheads, for an immoral purpose, have lately begun to call all sloppy interpretations adaptation: but I appeal to the learned, throughout Europe, * whether honest blockheads in all ages have not discoloured and enfeebled their originals precisely in this style, and called it "translation." * Hence the proverb "traduttore traditore."

This is an outline of the defence in the great case of Barnett and another versus France and Justice, under the name of Reade. Let us now combine our information.

1. With these materials, any English piece so pirated as "Poverty and Pride" was, could have been at once protected by an injunction in equity, or an action for penalties, under 3 & 4 William IV.

2. With these materials counsel advised me not to sue adapters or colourable pirates under 15 Victoria, and in defence of a French dramatic property protected at great cost, and statutable.

3. Mr. Payne's counsel advised him to transfer the case to the most expensive courts he could find, and fear nothing I could do with these materials.

4. (Barnett v. Reade.) When the pirate, strong in the conviction that the Act of 15 Victoria is a man-trap, sued the honest citizen, and accused him on oath of *malice*, for trying to parry by advertisement a hostile advertisement, which was a death-blow to the French property, then my able and learned counsel felt so sure the dramatic clauses of

15 Vict. are a mere juggle, that, with these materials on their briefs, they dared not rely on the statute and the facts of the case even *as a defence*.

This then is the way the Act and treaty *work in our courts of law*. My interpretation, therefore, whether just or not in theory, turns out not worth a straw. For laws cannot execute themselves, but can only reach the citizen by the medium of the courts. The statute then, constituted as our courts are, operates thus : —

In all cases where the French dramatists don't pay the heavy price charged for protecting them, their works can be translated literally, and, in point of fact, they are so translated.

In all cases where they do pay the heavy price, then the heartless, lawless law encourages another swindler to attack them, viz., "the adapter." He destroys them as inevitably as the other. *The same pirate that translates the unprotected pieces, plays the adaptation swindle on the protected pieces.* It costs him nothing : "it is as easy as lying," or as daubing a stolen article with paint. Any stick is good enough to beat such mere dogs as Victor Hugo, Scribe, Molière, Shakespeare, Corneille. Mere colourable piracy is punished every day between Englishman and Englishman ; but it becomes an honest lawful act when levelled against a French dramatic author, after he has bought of us at a heavy price those sacred rights an Englishman gets gratis. Oh, shame ! shame ! shame !

C A P . X .

To all this there is but one cure, and no one can say the remedy is hastily proposed. Expense has not been spared to obtain opinions of English lawyers before condemning an English statute. The result is before you.

The English courts, too, have had a fair trial. The result is before you.

I was advised that if I took this ambiguous statute to Chancery, the court would send it to law, after putting me to the expense of filing my bill, etc.

Why should I pay 80*l.* to one man to tell me to go to another man? That would be rather too idiotic.

The courts of equity, therefore, could n't deal with our double difficulty of fact and law.

I went to the county court, which is the next best place, because it is quiet; and the judge is not encumbered with twelve worthy Anglo-Saxon hogs, all hating brains like poison.

But this court failed like the former. It has not the power to protect itself from insult. A Judge of Appeal launched from a secret tribunal an imperial mandate overruling the three estates of the realm, and compelled me to go to a more pillaging, and therefore, *ex hypothesi*, a more competent tribunal. Failure of justice, No. 2.

Well, I found myself in this very competent tribunal, to which I had been driven like a lamb to the pillage.

And what was the first word this competent tribunal uttered? the very first?—

A DECLARATION OF ITS INCOMPETENCE, NO. 3.

"Friend, go up higher!" said Emperor Channel, "go into *my* court!"

Well, I am in his court, and it cost us 200*l.* to get into his court. What is the first word we get for all that money?

"Friend, go down lower! this is a case for an arbitrator."

And so the interests of the greatest writers in the world, foreigners, and the *judicial interpretation* of a statute, were referred, in spite of my teeth—to whom, in heaven's name?—to a barrister; who is not only lower, but infinitely lower than a County Court judge. For a barrister, however great his learning and ability, is but a private citizen. But a County Court judge is a part of the executive government, and his construction of a statute is a judicial construction, and can be laid before the legislature as sufficient evidence of the working of the law: a barrister's can't.

The "rise and progress" of this great case may be described by the following figure:—

Exchequer. B

County Court. A

C Private citizen, to be

paid by the poor suitor for doing the work of gentlemen the nation pays five to twelve thousand a year to judge all who come to them.

Did you ever hear of a dance called "the double shuffle"?

That dance must surely be some relation to these dances from A up to C? while the music plays the great national air of "How not to do it;" and the suitor pays the piper.

SUMMARY.

Our courts of equity won't guess so obscure a legal riddle.

Our county courts would do it, but a dog in the manger won't let them.

Our superior courts won't do it, nor let any court but themselves do it.

Out of this maze of insular wisdom and jurisprudence there is but one exit. We must get that working swindle blotted out of our statute book, and that done, my allies can go to our judges in equity (a), the natural guardians of copyright. They will not shrink from mere trouble. The law-

(a) In a recent copyright case, one of these gentlemen is known to have taken the evidence home with him, and studied it closely during play hours for a matter of three weeks.

yers are still sitting in those courts who made England give little Hanover back her diamonds after seventy years' juggling; and they will make her deal justly with French genius, the moment justice shall be law. And "justice to authors" will be law the moment the love of justice shall gain a footing, however small, in the *heart* of the legislator. Never till then. Justice, like music, must be in his heart, or it will never come out at his pen.

"His conscience?" Thank you! I don't deal in gutta-percha.

"His head?" I've outgrown my love of cocoa-nuts.

Will any honest man or woman in this island help me sow the first seeds of "justice to immortal authors" in the English legislator's *heart*? I shall be grateful.

Will any brother writer rise to the occasion, and join with me, *sincerely*, in this good work? If he will, I am his friend for life: and he will find I can love as well as hate.

Will any lawyer who, like me, takes noble views of law, lend me his advice and sympathy? It will fall on me like the dew on Hermon.

The first step towards cleanliness is to know how dirty we are.

This can only be ascertained by comparison.

The nations that in matters of copyright have been the most constantly accused of dishonesty by the English press, are Belgium and the United States.

Very well.

"I, Charles Reade, of 6 Bolton Row, Mayfair, London, do, by these presents, offer a bet to the first comer of whatever nation.

"I bet him, or her, seventy guineas to forty guineas, that he, or she, does not to the satisfaction of able umpires, to be by us approved, succeed in proving that either the kingdom of Belgium or the American republic has ever, in treating or refusing to treat with another State for international copyright, been guilty of any act as dishonest, disloyal, and double-faced as Great Britain has committed, by treating with France for international copyright; and contriving, under cover of that treaty, to steal the main intellectual export of that empire, and that I will prove the contrary."

There, that is the way to get at the truth in England. The country is chock full of fellows who will risk their souls on a lie, but won't risk a 5*l.* note on one.

Lawyer, statesman, writer, and plain honest man or woman of every degree, marchons!!

This disloyal intruder into a great international equity has been tried nine years, and convicted as a pettifogging cheat: down with it!

It is a blot on a noble enactment, and on our national escutcheon: "Out, damned spot!"

It is a double-faced, double-tongued, double dealer. It turns one cheek to the honest inventor, and says, "Pay the price, and I'll protect you;" turns the other cheek to the rogue, and says, "Let him pay what he will, I'll show you how to do him;" and so it tempts the honest man to his temporal, and the frail man to his eternal harm: down with it!

Oh, do not think that any vacillating enigmatical law is a merely silly thing.

It is a hellish thing.

It is an equivocating handpost.

It is a standing temptation to commonplace consciences, *i. e.*, the greater number, and decides them to pick, and steal, and hide, where a clear law would bind their hands, and perhaps save their souls.

It is a fruitful nursery of Spartan thieves, and Cretan liars, and English adulterators, the three blackest rogues in creation.

It is a trap for property, probity, and industry.

It is the horror of all great and wise men that love their kind.

It is the devil's delight; and an imitation of his worst known vice.

"And damned be those equivocating fiends,
That palter with us in a double sense!"

— *Macbeth.*

CAP. XI.

FOR three months that wretched arbitration hung over our heads. Then, one fine day, I was told that the whole thing was at an end. They had applied to the full Court for a new trial, and the Court had refused them. The nonsuit stood: and Barnett and Johnstone had to pay Reade's costs.

"Sue a beggar, catch an insect," says the proverb. And, unfortunately, if you are sued by a beggar, you catch just as many insects. My allies and I caught two hundred and seventy in *Barnett v. Reade*.

In other words, our lawyer's bill for *Reade v. Payne*, *Payne v. Reade*, and *Barnett* and another *v. Reade*, came to 270*l.*; of which, in theory, we had not one farthing to pay, except the two or three pounds in *Reade v. Payne*. But Mr. Payne went bankrupt, and evaded payment of our costs. (This arrangement is a part of the system of piracy.)

Messrs. Barnett and Johnstone awaited the storm.

Thereupon, in due course, our attorney threw Mr. Barnett into prison. Mr. Barnett instantly prepared to go through the Insolvent Court, and laugh at us. On this, I went in person down to the Insolvent Court, to oppose his unconditional discharge. I went alone, luckily.

The other side no sooner saw me in court, unencumbered with milk-and-water auxiliaries, than they came at once to terms, and offered that Mr. Barnett should pay by instalments 60*l.* towards our costs.

I accepted these terms, and Mr. Barnett was discharged. I have pleasure in adding that these instalments have been honourably paid, and that, where a little indulgence as to the periods has been accorded, it has been handsomely acknowledged.

Mr. Johnstone is a poor actor. I was told that if I imprisoned him I should merely punish him for his attack on me, and should not extract a shilling from him for my allies. You know my opinion about prison — that it is not Para-

dise. My well-weighed opinions on that point may be erroneous; and my shallow opponents' hasty guesses MAY be right. "The race is not always to the swift," etc.

But whether mistaken or not, I am sincere, and what I write I act. Therefore, I declined to inflict a fruitless imprisonment on this man who, by-the-by, had shown me no mercy; having first pillaged me and destroyed my property, then brought a malicious and slanderous action against me, accusing me of malice, a low vice.

However, clemency is a fine thing.

What says Portia — "It blesseth him that giveth and him that takes." It is "its own reward." And in fact, so I found it. For Mr. Johnstone evinced his sense of my clemency by showing all the miscreants and thieves of the stage how to rob me with colourable piracy of two of my *English* literary properties, and by leading them the way.

Besides the heavy pecuniary loss, these heartless vagabonds have made me feel once more the anguish a mother feels, robbed of her children.

Of the remaining two hundred and ten pounds, forty was to be paid by me, one hundred and seventy by the swindled.

But considering that I alone represented the honour of the nation in matters of dramatic copyright, and considering, further, that I had recommended my allies to try the English courts of law (for which, may God forgive me), I felt it my disagreeable duty to bear a larger share than that of the expenses.

Accordingly, being in Paris in 1858, I called on my good friends in their committee room, and offered to pay half the lawyer's bill, instead of 40*l*. They did me the honour to accept the proposal; and we have each paid since then 80*l*., leaving a balance due of 50*l*., or 25*l*. apiece to pay.

I think it bitterly hard that they, being foreigners, should not only be defrauded year after year by a nation which, in a national sense, defrauds no other foreigners on her own soil, but should also be swindled out of their costs in two actions they have *won*. Were I a rich man they should not pay one shilling of it.

As it is, I have done what I can out of a small income, reduced by perpetual attacks on my own copyrights, and by the expenses of defending them from my author-swindling

countrymen. And what I could not do directly I shall try to do indirectly, by writing and printing unpalatable and unsaleable truths, until justice shall be done.

Will any honest man help me by word or deed? We shall have a few pirates and thieves against us, and a mass of Anglo-Saxon brutality and apathy to peck into with our pens and tongues. But on our side will be advancing civilization and morality: and we shall win in one year, or twenty.

Consider! The whole honour of a country cannot be maintained by bayonets and rifles. Courage inspires admiration, strength enforces outward respect: but these come into play between nations only on great, and brilliant, and sad occasions.

We cannot measure our valour against French valour without putting back human nature like a clock, and making widows weep on earth and angels mourn in heaven. But we can vie with her in justice; and God, and all good men that love their race, can smile on the bloodless contest. And, in so worthy a combat as this, who ought to be in the first ranks? who, but authors, the moral instructors and self-appointed judges of mankind?

CAP. XII.

THE first division of my subject is exhausted. Those who read these pages, and still think that piracy on French dramatists is just, delicate, or honourable to the British name, are out of my power to convince on any moral ground. They shan't escape me for all that.

In compliment to their little infirmity (absence of the moral sense), I shall now dismount the high horse, and show them that this piracy is clean against the *interest* of the nation, or to use my own words, "is shallow, unstatesmanlike, and impolitic."

In the original print of this work I inserted between these two branches of the subject a fierce exposure of several scribblers, who under the coward's shelter, the anony-

mous, and the coward's and forger's shelter, the pseudonymous, have slandered me to the public as a tamperer with that very property in defence of which I have done and suffered so much.

But on reflection I shall not dissect skunks on the pages of an international book. They would make the whole volume smell, and I could not confine my loathing and scorn of them within social or legal bounds.

Their misrepresentations I will remove from such minds as are not unwilling to part with them.

French works produced before the treaty are English spoil, and English are French. Amongst these are "Claudie," a play by George Sand, and "Tiridate," a one act comedy. I adapted both these to the English stage years ago; and paid the French authors nothing, and never will, any more than they paid poor ruined Walter Scott a shilling for the hundred thousand pounds and more they made out of him. I am just to myself and to England as well as to France. Equity of spoliation up to 1851. From that date equity of commerce (a).

I kept my adaptation of "Claudie," called "Village Tale," for two years, and then a small theatre, the Strand, played it.

It was from a famous source: it was criticised in the usual organs, and its origin no secret to any human creature. One of the actors was even induced by it to make a rival version from the original.

This play was what some people call successful, and I call a dead failure.

I can bow to the public when it is right; but I never bow to error and false judgment.

I have purchased Mr. Millais's chef-d'œuvre in the teeth of all the babblers about pictures. And I ventured to differ from those who saw nothing in the "Village Tale." I built a beautiful little story on that beautiful little play, and tried it on the public in that form — second heat for the stakes, — and printed it in "Bentley's Miscellany."

(a) Since the treaty, M. Hachette, a French publisher, has never published or translated any English book, without paying the author. I won't be behind a French publisher, in justice to authors: I am an author.

The early history of "Art" is somewhat similar.

The manager of the Olympic Theatre requested me to give him a version of "Tiridate." I objected, for obvious reasons. He assured me Mr. Oxenford's was denied him, and that if I did not do one, somebody else should. So I produced a version of "Tiridate." It was read, and a principal actor declined his part. On this, the manager could not do it. It is usual, in these cases, to make the poor soul do it, or pay.

I took what I intended for a less illiberal course. I said, "Well, never mind, there is the open market;" and I built a story on it. However, while the story lay in my desk, I made a present of the play to a deserving but unprosperous theatre, the St. James's.

The play was criticised in the "Times," and elsewhere, and its origin transparent. It was version No. 2 of a familiar theme. When these two stories came out in "The Miscellany," in 1854, they attracted little attention. Their French origin was the only thing commented on; their intrinsic beauty was as little seen as the labour and skill that had turned them from plays into *good stories*, one of the rarest feats in art.

Years rolled on, and my English novels, especially "It is Never too Late to Mend," raised me to popularity. Then my publisher, Mr. Bentley, naturally wished to profit by his early appreciation of me. He purchased the copyright of these stories for two years, and eventually produced them, together with a new story, in a cheap volume.

By the light of "It is Never too Late to Mend" the two former verdicts were instantly reversed; and Mr. Bentley, I hear, sold twenty-five thousand copies in a few months. This in 1857, three years after their cold reception in the "Miscellany."

On this success, always deserved, yet obtained only after two defeats, will it be believed that a cabal of booksellers' hacks, presuming on the ignorance and obliviousness of the public, suddenly affected to believe (the little rogues) that these subjects were now produced for the first time instead of the third; and that their origin, instead of being doubly notorious, was a discreditable mystery; and that French talent was selling me, instead of being sold by my personal reputation, after failing twice on its own merits; and that I

was tampering with the treaty? whereas my publisher was but reprinting works taken long before the treaty.

Those who did me this injustice without malice, I invite, without heat, not to be so hasty next time with their flippant comments on the character of an artist, whose art is freely abandoned to their wildest conjectures.

A pseudonymuncle, writing under the sham signature of M. P., says he "found out that one of Mr. Reade's books was copied from Mr. Oxenford's adaptation of 'Tiridate.'"

This is an unscrupulous falsehood, though not a very noxious one. Pseudonymuncle found that Mr. Oxenford's adaptation is not printed; he found too that Mr. Oxenford had criticised my version of Tiridate in the "Times," and noticed that the treatment was different from his own—or he found nothing.

This same pseudonymuncle goes on to say that my novel, "White Lies," "*is in dialogue and incident a translation from a drama called Château Grantier, filled up into three volumes with the moral reflections of the distinguished appropriator,*" etc. Now the above statement having obtained a large currency, perhaps it may be as well to compare it with the truth.

Of a three-volume novel so composed as he has described, two thirds must be moral reflections, so small is the bulk of a play compared with that of a novel.

Well, the volumes of "White Lies" are before me. I find a page and a half of *political* reflection; a page and a quarter on *puppies*; half a page on Napoleon I.; a moral paragraph on suicide, and another on women, etc., and a fragment or two.

The work is seven hundred and sixty-eight pages. My moral reflections are not two pages. I doubt if they are more than one. All the author's reflections together (and it is the author's reflections he is talking of) may be six pages. Compare this with the impression this liar has sought to create!

Such bold falsehoods are uttered in a sentence. To confute them fully would take pages.

Let us apply, for once in a way scientific criticism. The test I propose is one, the value and severity of which will strike every man who knows the A B C of that science. It is a test that would at once be fatal to all your "fair adaptations," and identify their plots with the French originals.

On its first appearance in the "London Journal" "White Lies" was illustrated by Mr. Gilbert.

I don't know Mr. Gilbert, even by sight. I held no communication with him. Proof-sheets were no doubt submitted to him by the publisher, and he selected for his pencil what his experience told him were the most dramatic and telling incidents.

I put the inventor's name opposite each of these situations, selected by Mr. Gilbert.

The story begins July 11, 1857; No. 646, Vol. XXV. The title to each illustration has been supplied, I conclude, by Mr. Gilbert.

1. "Josephine and Laure interrogating the soldiers." [This is a situation of five figures.] — Reade.

2. "Edouard Riviere watching Josephine and Laure." [Three figures.] — Reade.

3. "The notary's departure from Farmer Bonards." [Two figures, and pony.] — Reade.

4. "The discovery of the purse." [Five figures; admirably done, Mr. Gilbert.] — Reade.

5. "Riviere conveying Dard home after his accident." — Reade.

6. "Josephine expelling the Notary from Beaurepaire." [Three figures.] — Reade.

7. "Riviere granting new leases to the tenants of Beaurepaire." [Six figures.] — Reade.

8. "Riviere obtaining leave of absence from Raynal." [Two figures.] — Reade.

9. "Commandant Raynal dismissing the Notary from Beaurepaire." [Three figures.] — Reade.

10. "Interview between Laure de Beaurepaire and Raynal." [Two figures.] — Reade.

11. "Return of Camille Dujardin to Beaurepaire." [Three figures.] — Maquet.

12. "Josephine imploring Camille's forgiveness." [Three figures.] — Reade.

13. Not illustrated. Under those circumstances, I beg to state there is not one syllable in the whole Number, nor one idea, that is to be found in "Château Grantier."

14. "Camille Dujardin making his nuptial arrangements." [Three figures.] — Reade.

15. "Camille Dujardin reading Raynal's letter." [Five figures. Very skilful, Mr. Gilbert.] — Reade.

16. "Dard marching off to join the army." — Reade.

17. "Josephine sympathizing with the poor mother." [Six figures.] — Reade.

18. "An unpleasant discovery at Beaurepaire." — Maquet.

19. "Raynal writing to Josephine from Dujardin's tent." [Two figures.] — Maquet.

20. "Colonel Dujardin leading the attack on the Bastion St. André." [Numerous figures, full of spirit.] — Maquet.

21. "Laure snatching the poison from Josephine." [Six figures.] — Maquet.

22. "The return of Dard and La Croix to Beaurepaire." — Reade.

The plagiarism, you see, is small, the invention large by comparison.

By the word "appropriator" it was intended to convey that I have here *stolen* French ideas, (as my detractors do, and those they praise,) instead of *buying* them like an honest trader.

This too has been echoed far and wide. Compare with this statement made and repeated by writers, who have not access to my kitchen, far less to my heart, what the author of *Château Grantier* himself wrote to me on the point in 1857.

" Rue de Bruxelles, 12, Paris.

" MY DEAR READE,

" VOTRE nouvelle est charmante. Elle respire tout votre esprit et your warm heart," etc. — (all this refers to a translation of 'It is Never too Late to Mend').

" Je vous reconnais bien à votre proposition de 20 livres pour la nouvelle du 'Château Grantier.' Vous êtes un vrai gentleman. J'eusse éprouvé un vif plaisir à vous dire cela en vous serrant la main : mais la manche est entre nous, et y sera encore tout cet hiver, etc., etc., etc.

" MAQUET."

The whole transaction was as follows :—

In 1851, instead of stealing, like the rest of my countrymen, I gave Maquet 40*l.* for the play of Château Grantier, subject to a certain clause, *vide* p. 25.

In 1854 this clause came into operation. The London managers had declined the play, and it became waste paper on my hands. On this, Monsieur Maquet refunded to me 20*l.*, as per treaty. I took it; for I am not a generous person at all, nor chivalrous in money matters, but only one who deals as fairly with authors as with tailors. I was still 20*l.* out of pocket; and my work: two acts of which were original. I could not afford to lose my money, still less my labour. Was it just I should? come now!

I determined, therefore, to build a story on the basis of my rejected MS. But as this was throwing the theatre over altogether, I thought it fair, in that case, to repay Monsieur Maquet the 20*l.* he had refunded: and, indeed, the wish to be able to do so with justice to myself had some influence in setting me to work.

I worked *twelve months* on this novel of "White Lies." Round the small nucleus of such incidents in "Château Grantier," as were fit for *a story*, I wove a whole web of original invention; and I did, what no Englishman ever did since the nation existed, I bought those few incidents for my story of the French dramatist, instead of *appropriating* them as others do who escape abuse from pseudonymuncles; because liars and thieves understand one another.

Then it has been urged by others with more plausibility, and a great deal more courtesy, that I ought to have announced this work as an adaptation from a French original.

These gentlemen don't know what they are talking about. Why I should have been instantly swindled out of my labour and my property, and any such ridiculous and insincere admission of mine brought into court as evidence to eke out the perjury with which piracy is invariably defended.

I am not in Heaven: I am in England, a singularly friendless author, surrounded by heartless author swindlers, who attack every property I create, and who would rob me of "White Lies" to-morrow if my legal claim to it was merely that I had honestly bought the ideas of a Frenchman. Was "Poverty and Pride" spared? Was there one syllable of sympathy uttered in the English press either for the French

authors or for me, when we were robbed of it? It is lost to us as property forever. No; "White Lies" contains a few golden situations that are not mine in law, but only in morality, for I only purchased them of a foreigner; but on the whole it is a product of English labour and invention, and is an English copyright. And those who are not prepared to dispute this, either as pirates or libellers, before an unbought judge, had better take my advice, and from this date cease to dispute it publicly in their venal columns.

This short answer to the misstatements of two unscrupulous cabals is merely inserted to protect my readers against dishonest men, who would gladly prejudice them against this much needed book, by exciting an unworthy doubt of the author's sincerity and consistency in the cause of immortal authors, and their families, throughout the world.

Men don't like to be led to virtue by a hypocrite. And I don't blame them.

Take my advice, then: go by facts!

An Englishman may write leading articles, or critiques, in favour of justice without caring a straw for her: he is paid per line or per time, not per sincerity: and, besides, verbal virtue is as saleable as vice in book or journal. But if an Englishman puts his hand, not into his head, but into "his heart of hearts" — his pocket — for a cause; and bleeds, and bleeds again, time, money, toil; take my word for it that Anglo-Saxon is in earnest, even though the cause he bleeds for should be a just one. We all belong to the genus *Mammonalia* here.

Arm yourselves with this bit of common sense, and give the tried advocate of international justice and national honour a candid hearing.

The first part of the case is in your hands. Weigh it!

CAP. XIII.

THE love of the drama is so engrained in the human heart, that all attempts to put it down are insane. This makes it all the more our duty to improve it. To improve it is as easy as to destroy it is impossible: for the stage has no fixed character any more than have these old rags, on which I now write its first true definition as a moral or an immoral engine.

DEFINITION OF THE STAGE.

The stage is (not a pit of perdition, but) "a set of dirty deal boards laid down nearly flat, with vertical pictures crossing it by means of side-grooves." On those boards a story is presented in its natural form, instead of the artificial shape of narrative. Its moral character depends *entirely* upon those eight hundred men and women you see sitting on the other side the foot-lights. The actors are their slaves and chameleons; and through the actors the dramatist is their slave and their chameleon, *as no other writer is*. The stage is what the public and the Puritans make it between them — the Puritans by staying away, and robbing it of the benefit of their voice, and the public by going and approving or disapproving according to the current measure of their virtue and intelligence. This makes it the more important that men and women of intellect and character should attend the performances, and help to keep up their tone.

But persons of intelligence will not give a high price for a bad intellectual article. And the English theatres do not habitually sell a good one.

A comparison of the French and English theatres reveals the following facts: —

1. That the French managers are selling to their public representations of modern French life, really interesting, and often beautiful and instructive; and that the English managers are selling pantomime, good scenery (English), puns, and certain ordurifications of all that is great in man

and pure in woman, and ennobling in art, called burlesques, and clever French truths turned by discoloration into stupid English lies.

2. That they are selling this bad intellectual ware dearer to the public than the French managers sell their good article to their public.

3. That they have closed the stage to English authors or inventors, *as a class*.

4. That they don't pay the writers they do employ one-eighth as much as the French theatres pay their writers.

5. That the highest minds, French or English, find pleasure and instruction in the French theatre, and have been driven, *as a class*, out of the English theatres.

Now, I am going to show you that all these happy results — high prices, low article, intellectual auditor banished, inventor extinguished, adapter half starved, petty pirate in rags — are not the results of nature, as dreamers think, but the product of feeble legislation, and unjust, incapable tribunals.

France has a national drama, mainly because she is an honest nation, and worthy of one. England has none, because she is at present an author-swindling nation, and unworthy of one.

When the English legislature shall rise to the moral and intellectual level of the French legislature, and the English judges to the moral and intellectual level of the French judges, then the present artificial oppression, which is *such as no art ever yet throve under*, will be removed or lightened, and a great and glorious national drama will that moment begin to arise by a law of commerce as inevitable as that which now strangles it. English statesmen would not need to be told all this by me, if they would only think for themselves instead of trusting to rant, cant, and chimera.

English statesmen dealing with matters mechanical are gods in intellect compared with the same men regulating literary commerce.

The reason is worth profound attention, and dictates my line of argument.

In figs, and cotton, and all the business of the mechanical arts, our statesmen, the most laborious and wisest in Europe, Napoleon the Third excepted, have the industry, and the

humble, lofty intelligence, to hunt up the legal evidence first, and form their opinions accordingly. But in literary business they lay aside, even as a garment, that wisdom humble and lofty, and go by intelligent conjecture founded on vague but current notions.

But this is to be shallow in proportion as the subject matter is profound.

It is to build their huts on the rock, and their palace on the sand.

In sober truth, this is to apply to figs and raisins, etc., the Solomonian method, i. e., observation and induction; but, to literary statesmanship, the method of the schoolmen, which kept the world dark for ages.

Now that false system, though it has lost its wide domains, has not lost its nature, nor its absolute power over its contracted territory. It sends hundreds of moderns to Bedlam every year; and it can still reduce to utter darkness any stray subject on which it settles, A. D. 1860.

And, unfortunately, one of the relics of that old kingdom of darkness is a little province called "Literary Criticism;" a pseudo science (at present), one of whose positions is that, in matters of art, a man may attain to truth by searching the depths of his inner consciousness.

This is a German phrase, and there are not above six men in this island who thoroughly understand it. Let me have the honour of adding your name to that list.

In figs and raisins, and in the fine arts, and in every subject matter whatever, "the depths of a man's inner consciousness" are "the shallows of his ignorance with the rock of his vanity peeping through the foam and froth."

Nothing in man is an inch *deep*, but knowledge painfully acquired, partly by personal observation, partly from the testimony of other eye-witnesses. Nothing in man is a foot *deep*, but knowledge acquired by the science of sciences, statistic. That science, sneered at by buzzards, is "the *soi-disant* Baconian principle" worked by a vast machinery of eyes and hands. It is what I call *Solomon* (a) + *Argus* + *Briareus*.

(a) Lord Bacon inculcated observation, but was a feeble observer. Solomon did not talk about it, but did it. And that is the man for my money.

Out of literature, then, our statesmen base their conclusions upon this science of sciences; but in literature they reason *a priori*, or else don't reason at all, but resign their own excellent judgment to the rant, cant, and chimera that are current in society, and sometimes to quarterly and monthly "critics" so called. But these are all tarred more or less with Thomas Aquinas his stick.

They fiddle well, but they can't see; and a blind fiddler is no better a guide than a blind tinker.

I can think at present of no better way of converting men of intelligence from that pernicious system of reasoning in literary matters, than to give them a glimpse of it at work, blinding the ingenious persons that use it, and reducing the learned to ploughboys.

CEPHALOMANCY, EXAMPLE 1.

When Lord Macaulay first brought out his "History of England" it was a great chance for criticism; for the feats of that science are not florid phrases, but *contemporaneous judgments that posterity confirms*" (your humble servant's judgment of Sir Isumbras, to wit); and it is not once in fifty years that so great an author as Macaulay comes up for such judgment.

What was the general tenor of that most amazing verdict? That Macaulay was a charming and seductive writer, but an ephemeral one. "It is not the 'History of England,'" (*sic*), said the "Times;" and nine out of ten English critics arrived at the same conclusion, and on the same grounds. I will state their reasoning shortly, but fairly.

"We grant his dazzling parts and his profound industry, and his mastery of English. But he mixes largely the colours of fiction and rhetoric with history. Therefore his history, popular for a time, will not be immortal."

Apply the syllogism! The syllogism is a touchstone, though not the instrument, of reasoning. Mr. Mill will grant me that.

Major premiss. No historian, who mixes the colours of fiction and rhetoric with history, achieves immortality.

Minor. Macaulay mixes the colours of fiction, etc., with history.

Ergo. Macaulay will not achieve immortality.

Now where do they get their major premiss, or general principle? Why out of the depths of their inner consciousness. It is an impression: and a rational one. Most error is rational.

Apply the Solomonian principle. This begins at the other end: it inquires first and decides afterwards, instead of deciding first and inquiring never.

The first immortal historian was Herodotus. On dissecting his work we find it composed of three main elements. 1st. A number of exact truths, the result of investigation as enthusiastic, honest, and laborious as Macaulay's, and even more meritorious, because accompanied with bodily fatigues, and the dangers of travelling in rude times and foreign lands.

2nd. A number of fictions and romantic traditions gleaned from oriental priests and such-like romancers.

3rd. A number of speeches put by the historian into the mouths of his characters, not one word of which any of them ever uttered.

The first immortal history, then, is one part truth, and two parts fiction.

The next immortal is Thucydides. Dealing with events that happened in a few years, and on a singularly small arena, this contemporaneous historian could record facts with an accuracy unattainable by Herodotus, or indeed by most writers. He is believed to have done so. I should feel sure of it, if he had not opened with an unseemly brag, and a needless detraction of a greater man than himself. Well, this immortal has coloured his narrative, and seasoned it with spice from the dramatic poets of his country; and a huge river of pure fiction runs right through it; the speeches are more numerous and far more lengthy than in Herodotus, and they are just as pure fiction as the speeches in the "School for Scandal" or "Oliver Twist," or as the imaginary conversations of Mr. Landor, or of Monsieur Monteil, or the dialogue in the "Œdipus" of Sophocles, Rotrou, Follard, Corneille, Dryden, and Lee, or the speeches in Homer's "Iliad" or Shakspeare's "Troilus and Cressida,"—the single difference is, that the fiction, in the historian, is more crude and barefaced than in the best poets. In Homer, as in all great modern artists, the characters utter, not the writer, but themselves. Ajax talks Ajax, Achilles Achilles, Hector Hector, Nestor Nestor, Ulysses Ulysses. But in

Herodotus and Thucydides all the speakers talk Herodotus and Thucydides. It is prime rhetoric and second-rate fiction.

Next in eminence comes Livy. He starts by telling us he is not going to embellish; but this is a mere flourish of words in imitation of Thucydides. Adaptation. "*Bêtise renouvelée des Grecs.*" A favourite trick of the Latins. Having eased his mimic conscience, Mr. Bos Locutus Est Livy goes to work and sets his she-wolf suckling little boys, and his seven consecutive kings reigning 280 years, and his bulls talking, and his clouds raining blood, and his vinegar dissolving primary rock, and his characters delivering long orations, masterpieces of rhetoric and uniform Latin, no syllable of which they ever uttered. With all this fiction he is an immortal historian, and deserves it.

Polybius is far more accurate, colourless, — and neglected.

Tacitus is grave, fair, and cool: a great model: but not the "laid ideal" of the Cephalomants. He is tinted with the arts of fiction.

Of old chroniclers the French have dozens; but Montrelet, Jean Juvenal des Ursins, Belleforest, and the rest, are dry, and do but exist: Jean Froissart lives, and lives by his gorgeous colours.

The English have a host of learned chroniclers: who reads them? Nobody but the bonepickers of learning: and why? because they are colourless. Holingshead we peep into, just to see the dry bones that Shakspeare and fiction put flesh on: but one peep is enough.

Voltaire's "Charles the Twelfth" lives.

Mariana's Spanish History lives.

Thierry's "History of the Norman Conquest" lives.

Lamartine's "Girondins" lives.

Mr. Carlyle's "French Revolution" lives. It is far more highly charged with fiction than Macaulay's. It is a gallery of poetical caricatures.

A colourless history or two survive also, such as Mosheim's and Dr. Henry's: but they are the exception rather than the rule, and almost as many shallow inaccurate histories live on by style and colour alone; Hume's at the head of them.

Gilt rags are naught, and perish soon or late. But silver gilt is a mighty different matter, and that is where these muddle-heads got confused.

Strutt and Monteil were two antiquaries, equal in learning, research, and enthusiasm.

These remarkable men printed the labours of thirty years. Strutt published his learning in the form of learning. Monteil threw his learning into a string of little fictions, studded with recondite facts, and bristling with notes and references. Strutt printed a thousand copies (quarto), and has never got to a third edition. Every scholar consults him, now and then, as a sort of demi-dictionary. Nobody reads him. Monteil, his superior in nothing but that happy idea, is not only read but thumbed, in England as well as France: his work has been twice crowned, and has gone from edition to edition, and bids fair to flourish for centuries.

Of all the works of Erasmus, what really survives? His "Colloquies" alone. And why? They are a mine of erudition and observation; but so are most of his works: but in the "Colloquies" there is fiction, and its charm, superadded to his learning, language, method, and philosophy—as in the immortal Macaulay.

The Solomonian principle gives us, then, by infallible induction this; that where things so rare and solid as long and profound research, lucid arrangement, and empire over language, meet in an historian, there he has a good chance of immortality; but, where he blends with these rare virtues the seductive colours of fiction, he turns that good chance into a certainty.

For which reason the premature tomb in Westminster is "the grave of one that *cannot* die" but with the English language. I wish I was as sure of the kingdom of heaven.

The same applies to bias. Your *à priori* reasoners divine that bias must be fatal to any historian's duration. Enter Solomon and shows you that three out of five immortal historians have a visible bias.

CEPHALOMANCY, No. 2.

A lady writes a book to prove from internal evidence that Lord Bacon wrote Shakspeare's plays. On this mania she expends great ingenuity, and powers of mind it makes me sad to see her wasting so. Men are hanged every month in England on legal evidence light and incomplete compared with the legal evidence that Shakspeare wrote "Hamlet," "Othello," etc.

Some of these plays were printed and entered at Stationers' Hall under his name whilst he yet lived. So were all his sonnets and his "Venus and Adonis," which he dedicates in person to Lord Southampton, and which, by internal as well as external evidence, are proved to be from the same hand as the plays. Those plays were his sole source of income, yet his bonds, his mortgages, and a will, survive to prove he became rich from poor. For those plays Greene and Jonson, playwrights, sneered at him while he lived (*ἀειδὸς ἀειδῶν*), and Jonson and many more brayed the usual recantation over the dead dramatist's body. Contemporaneous register, contemporaneous praise, envy, bonds, deeds, letters, will, bust, picture, scarce a phase of legal evidence is absent from the throng. Against these, who but criticsasters and lunatics ever oppose *a priori* reasoning in this century?

The last instance is Cephalomancy pushed further than usual. *But in matters of reasoning the true test of the value of a principle is shown by carrying it as far as it can go.* The Solomonian principle will not shrink from that same test. Until of late years you could not detect the existence of poison in a dead man, unless it was in the stomach. Well, the chemists announced that certain poisons entered the tissues of the body. The body of a murdered man is now melted down if necessary, and a grain of arsenic found gives the one link wanting perhaps to punish murder, and protect honest men's lives. This is now legal evidence. A few years ago blood was blood in the eye of the law. But now the law does not refuse to apply the microscope, and to learn by the number and shape of the globules that the blood on a murderer's trousers is not the blood of a sheep or a rabbit, but of a man. The Solomonian principle, you see, bears carrying out — *the further the better*. These and many additions to its range of inference are quite as subtle, and a thousand times more beautiful, than the silly ingenuity of Thomas Aquinas and his modern relics; and that Solomonian method criticsasters must import into literature, or they will never be critics, and never find out why France has a great living drama, and England had, and has n't.

CEPHALOMANCY, No. 3.

The mind of Richard Bentley was by nature of the same gigantic mould as Newton's and Bacon's. That he turned that mind's eye backwards instead of forwards was a mere accident, and perhaps on the whole a misfortune (*a*). Whatever science he had give his youth to would probably have strode forward a century under him. At twenty-nine years of age the scholars of the Continent hailed him the star of learning. No Greek scholar that ever lived either approaches or resembles him. The old Greeks themselves, each in their day, were like men walking on a road; they saw a little way before them, behind them, and about them, and that was all; but to this modern, looking from the height of his prodigious learning, all Antiquity seems present. His page is like a fiery torch moving across the dark abysses of the past, and lighting them in a moment to the bottom. What was the end of this intellectual son of Anak? He edited Milton, and assuming that Milton employed an amanuensis who garbled the text, he undertook to restore it. He informs the reader that "he will supply the want of manuscripts to collate by his own sagacity and happy conjecture."

Read this amazing sample of impudence, incapacity, and ignorance, and compare it with the editor of Hesychius and Joannes Malila of Antioch, and the Dissertator on Phalaris. How are the mighty fallen! Can this arrogant dunce be the same Bentley? Ay? it is the same man, but the opposite method.

His emendation of poor Horace was the intermediate step. But the canker must have been *in* him from his cradle. The whole decline and fall of Bentley is worth a thousand times closer study than has been bestowed on it. The sum total is this. This great scholar and close-reasoning divine began upon the Solomonian method. He worked it against error in a dozen forms. By it he detected John Malila reducing verses to prose, and turned them back. By it he detected the two leading errors that had corrupted Hesychius; and effected five thousand approved emendations

(*a*) He had himself misgivings towards the close of his career whether he might not have employed those rare powers more profitably to his country.

in that single author. By it he discovered the synalepha or liaison of verses in the anapæstic measure practised by Greek writers and their Latin imitators, which had escaped all the intermediate scholars. He worked the S. P. against Hobbes in his Sermons, and there confuted, *inter alia*, a piece of Cephalomancy lately published as new in "The Vestiges of Creation" (a). And his great work on the letters ascribed to Phalaris, Themistocles, Socrates, Euripides, etc., what is the stone it was built on?

Throughout this controversy with the wits of Christ-church it is one mass of legal evidence on the scholarly giant's side; and arbitrary analogies and intelligent conjecture on the side of the Lilliputians; and sometimes, as in Bentley's Milton, the Oxford conjectures are based on conjecture. It is one critic versus a clique of criticasters. And mind, contemporaneous idiots thought Oxford had gained this battle; whereas she was not only defeated, but annihilated. Such was Bentley so long as he was true to Solomon: "*nec pluribus impar*."

He went from Greek to Latin, in which he was not supreme; and as his knowledge became shallower, his inner consciousness became profounder. It always does with every man. See the principle on which he changes "*qui siccis oculis Arcroceraunia*" into "*qui rectis oculis!*" and "*versus male tornatos*" into "*male ter natos*." See the whole thing!

He seems scarce conscious that his science was, to tell us what Horace said, not what he should have said; and that the consent of early MSS. is the legal evidence as to what Horace did say. "The lying spirit of divination" having now entered him, and ousted the teacher of Israel, he was no longer "*nec pluribus impar*;" on the contrary, no dreamer was ever more justly or effectually quizzed. [Vide one specimen out of a hundred, the emendations in "*Martinus Scriblerus*," printed among Pope's works.]

(a) Those who fancy Bentley was a mere scholar should read his "Boyle's Lectures," and his correspondence with Sir Isaac Newton, printed by Cumberland in 1756. This last I have a notion was reviewed by Sam. Johnson in the "Literary Magazine."

The Solomonian
principle,

or

Bentley restoring the
text of Homer.

Extract from a letter to Dr.
Davies about Joshua Barnes's
edition of Homer:—

He struts and swaggers like
a *Suffenus*, and challenges that
same enemy to come *aperte*, and
show him any fault. If he mean
Me, I have but dipped yet into
his Notes; and yet I find every-
where just occasion of censure.
Il. x. ver. 201, — 'Ἀλλὰ ἀποπτα-
νέουσιν, ἐρωήσουσι δὲ χάρμης.
Thus all editions have it; but in
Mr. Barnes's, and in the very
text, *Ἀὐτὰρ ἀποπτανέουσιν* · and
this noble note added, "*Ἀὐτὰρ*]
Ita omnino, pro 'Ἀλλὰ, ut olim."
So we have *αὐτὰρ* clapped in
pro imperio, only to avoid the
hiatus of two vowels, ἀλλὰ δ—
Now for this interpolation alone
his book deserves to be burned.
Let us examine into the passage
a little: What is ἀποπτανέουσιν?
He translates it *respicient*, but
says not one word to explain it.
His friend *Eustathius*, to whom
he owes the better half of his
notes, knows not what to make
of it, whether it be ἀπ — οπτα-
νέουσιν, from ὀπτῶ, ὀπταίνω, i. e.
ἀποβλέγουσιν · or ἀπο — πτα-
νέουσιν, from πτῶ, πταίνω, φο-
βούμαι, i. e. πτῆξουσιν · or from
πέτω, πταίνω, i. e. πετασθήσονται.
But who ever heard of either
ὀπταίνω or πταίνω? where does
our Professor find either of

The lying spirit of
divination,

or

Bentley restoring the
text of Milton.

In the seven famous lines:
He spoke, and to confirm his
words outflow
Millions of flaming swords, etc.

Bentley alters, out of the
depths of his inner conscious-
ness, "swords" to "blades,"
"arms" to "swords," and the
just and noble epithet, "the
vault of heaven," to the ab-
surd one, "the walls of heav-
en:" extracts the music in the
two first, and propriety in the
third, and quantum in se ex-
tinguishes the true reading
forever.

"No light, but rather darkness
visible."

This line Bentley restores
thus:—

"No light, but rather a *tran-
spicuous gloom*."

It is like a picture *restorer*.

"As from the centre thrice to
the utmost pole."

For this he substitutes,

"Distance which to express all
measure fails."

Milton.] Our torments also may,
in length of time,
Become our elements.

Bentley.] Then, as was well ob-
served, our torments may
Become our elements.

them? He is wholly mute upon this word, which is ἀπαξ λεγόμενον· and yet the wretch would venture blindfold to put in αὐταρ· but the true reading is thus: — 'Ἄλλ' ἀποπατάνουσιν — ἀποπαταίνω fut. — παπτανῶ, Ionicὸν παπτανίω. Παπταίνω comes forty times in Homer; and, if he had been, as he thinks himself, *Mæonides, sextus pavone ex Pythagoreo*, he might have found out the emendation, which is clear, *per se*; but I will prove it so by authority. Etymol. in 'Ἀποπτάμενος, "πέτω πεταίνω καὶ παπτανῶ παπτανούσι καὶ μέτα τῆς προθέσεως ἀπὸ, ἀποπτανούσι." so it is printed indeed; but it is evident that he wrote it ἀποπατάνουσιν, and had respect to this place, as Sylburgius well observes. Again, Hesychius, in the right series between ἀποπαξ and ἀποπαρ, has it thus: — 'Ἀποπατάνουσιν, περιβλέψουσιν ὅπως φεύγωσιν· correct 'Ἀποπαπτανέουσιν, περιβλέψουσιν.—He means this very passage, as appears by the Scholiast: — ἀποπατάνουσιν· ἦτοι ἐς τὰς ναῦς ἀποβλέψουσιν, ἢ ἀλλαχόσε· ὃ ἐστὶ, φεύγονται. What says our Professor to this job? "Ἔργον 'Ομηρείου τὸδ' ἐπλετο Βαρνεσίω, to foist in αὐταρ of his own head; and so, *quantum in se*, extinguish the true reading forever! which while ἀλλά was preserved in the text, might some time be retrieved.

I dipped into his second volume, and there I found this learned correction. Od. A. ver. 546, p. 307. *Agamemnon*, says the Scholiast, to judge fairly whether *Ajax* or *Ulysses* best

Here is poetry turned into prose, and nothing gained but an anachronism as silly and more obvious than any he exposed in the pseudo Phalaris. Here is a pre-Adamite speaker made to refer back to a future observation.

"So parted they, the angel up to heaven
From the thick shade, and Adam to his bower."

Bentley condemns these two lines, and substitutes for the last,

"Adam to ruminate on past discourse."

His "exquisite reasons" are as follows:—

"After the conversation, it may well be presumed that our first parent waited on his heavenly guest to some little distance, and therefore the poet could not with propriety say the angel parted from the *thick shade, that is, the bower*, to go to heaven. And if, on the contrary, Adam attended the angel no farther than the door or entrance of the bower, how could he return to his bower? He had not, strictly speaking, ever been out of it."

Here is a conjuror for you. To begin, he does not know the difference between "bower" and "arbor" in old English. So Milton is to suffer by his ignorance. Next, this di-

deserved Achilles's armour, *Αἰχμαλώτους τῶν Τρώων ἀγαγὼν ἠρώτησεν, ἀπὸ ὁποτέρου τῶν Τρώων μᾶλλον ἐλυπήθησαν· εἰπόντων δὲ Ὀδυσσεύα*, he gave the armour to Him. — Here our Professor corrects it, *ἀπὸ ἀποτέρου αὐτῶν οἱ Τρώες* · and thus acts *Thraso* in his note—*Ita emendo; sensu postulante: quique hoc valent, ad hos provoco*. Impertinence! to appeal to men of sense here, as if it required much sense to know that *Ajax* and *Ulysses* were not Trojans! The business is to correct the place neatly, that is, truly as the author wrote it; which he has not done; but has gone clumsily about it. I'll give him the true lection, with altering half a letter: — *ὑπὸ ὁποτέρου τῶν Ἠρώων* · from which of the two heroes they suffered most.

viner can't conceive a cluster of trees in the neighborhood of a bower. So Milton is to perish for his folly.

Imagine a Horace or a Milton, cum notis variorum, the varii being Cephalomants.

Actæon's fate was but a feeble type of theirs.

Upon this method the drama has been discussed in England by all the more pretentious critics so called; and by their false system they have enveloped a mighty simple matter in almost impenetrable darkness. Perhaps the best specimens are to be found in "Fraser's Magazine;" and in particular you may derive real profit by dissecting the system in an article called "Poets and Players." This is written by a clever boy, whether an old one or a young one I can't tell; but probably the latter. Proceeding on the same system that in other hands proved Macaulay ephemeral, and Bacon the author of Shakspeare, and Shakspeare from his writings a Celt by race, in the teeth of the trivial fact that his father was Saxon and his mother Saxon (a), this poor boy has proved by à priori reasoning that Shakspeare's plays cannot be good acting plays for our day.

The argument runs thus. Since we see the best acting plays are those written for a certain set of actors, it is not likely a play written for Shakspeare's company, age, and audience should make a good acting play for other and more civilized times.

(a) His mother was the heiress of Arden.

He might have put it more strongly. Is it likely that plays, the female characters of which were written for males, would suit a woman to play in, or answer her purpose?

Now what does Solomon tell us? That these plays have never left the stage since they were written. That they have steadily increased in popularity, not declined. That they have been above all plays the delight of *actors*, especially *modern* ones. Betterton, the first great actor after the theatres reopened, played in them occasionally. Quin, who succeeded, played in them oftener. Garrick played them much oftener than Quin had. The Kembles, who succeeded, played in little else. Edmund Kean played in nothing else. Young, G. Cooke, Macready, Warde, Charles Kean, Phelps, Forrest, Vandenhoff, how would any English tragic actor get on relieved of Shakspeare? As to the women, Mesdames Oldfield, Pritchard, Cibber, Yates, Siddons, O'Neil, Charles Kean, Faucit, Glynn, all the female tragedians, in their day, have delighted to play those parts which Shakspeare wrote for "little scrubby boys."

The first actress put her foot on the English stage about the year 1661. She was full of natural womanly tremors, and came on with her little heart in her mouth, as you may see by her pretty feminine prologue, evidently dictated and improved by her own agitated feelings. Well, this little trembler, what author did she select for so hazardous and trying an experiment? She chose for herself, instead of letting criticasters and the male jackanapes about her choose for her; that is plain: and as most women are born critics, she chose an author never so little prized as in that filthy reign. To carry her through an ordeal truly terrible to the female mind, she selected, with all the sagacity of self-defence, and woman, not Shirley, D'Avenant nor any living celebrity, but a dead immortal, whom this wretched ephemeral conjectures years must superannuate. The first actress faced her first public in the character of Desdemona, and won the dangerous game in a moment. The public, contrary to expectation, for prejudice was afloat, welcomed her sex at once in that epitome of its purity, its virtues, and its sufferings, which Shakspeare wrote for "a little scrubby boy."

So much for Cephalomançy, by which we may prove quidlibet ex quolibet, if we have a mind to die the blind puppies we were born, and the vain puppies we were not born.

After this specimen, and many more like it, this writer endorses some German cephalomancy, showing that Shakspeare was not specially a dramatic poet, and would have succeeded better in other lines.

Solomon says, take down his volumes, and see first whether he has or has not attempted other lines: you can babble afterwards.

This Shakspeare then has written a volume of non-dramatic poetry, quite *long* enough to make a first-rate reputation with. It has been done with such a volume more than once since the revival of letters; but not by him. Out of the drama he is at most a second-rate poet. He does not come up to Dryden, nor Pope, far less to Milton, or Byron. Prejudice apart, there are a dozen men now living in Europe who can *rival* his "Venus and Adonis," and can *eclipse* his Sonnets à dormir debout. The story is a pretty story. His goddess is a thorough woman, with nothing of a goddess about her. Heaven knows whether that is a beauty or a fault. I am content.

In his sonnets anybody but a Cephalomant or an idiot can see that this is a thundering great fish in shallow water, floundering. He gets to his home, the stage, and it is a whale in a sea.

From David's days to Victor Hugo's, two hundred poets at least have surpassed him off the stage.

On the stage one man alone is his rival. The comedies of Molière are as supreme, in their way, as the tragedies of Shakspeare. But then Molière could not write tragedy, and Shakspeare has written comedies second only to the best of Molière's. Therefore, on the stage, by his double eminence he is "*ἀνὰ ἀνδρῶν*," and, I fear, will so remain till the end of time.

On the above plan of reasoning the whole article, and others by the same hand, are written; and thus a mountain of cant and chimera is raised between the reader and the narrow path that leads to truth.

There is the cruel part. These blind puppy-dogs drunk with moonshine are eternally filling the public ear, and drowning with their noise every whisper of truth. Your Cephalomant is a most dangerous, industrious pest, that raises an impassable mountain of cant and chimera before the very gate, which opens on the avenue, which leads to truth.

rara) was prodigious, and stirred up a host of imitations, the "Pastor Fido" of Guarini among the rest?

Goldoni, the great dramatist, tells us in his autobiography that he was a successful novelist. Must that be false? On that one point I prefer his inner consciousness to yours.

Cervantes (you have heard of him) wrote "Don Quixote," etc., and a dozen moral tales: but he began life as a dramatist, and made a great reputation by the theatre long ere he penned a story of any value. He wrote thirty successful plays. "Ah! but of small merit." How do you know? Have your intestines ever read them? He was not only a dramatist, but a dramatic genius. He claims to have been the first to embody the natural passions and actual characters on the Spanish stage. He also is the inventor of the three act play in Europe. He vastly improved the theatrical scenery and costumes; and it was he who paved the way for Lope de Vega. Vide his life by Mayans, trans. Ozell, pp. 5, 82, 83.

Is it a self-evident truth that Le Sage did not write "Le Diable Boiteux" and "Gil Blas"? Or is it "Turcaret," "Crispin rival de son Maître," and at least twenty inferior pieces? That great novelist was essentially a dramatist. Even "Gil Blas" is built on different dramas.

I have heard it stated as a fact that the "Vie de Marianne," by dramatist Marivaux, is a delicious story, and his "Paysan Parvenu" not a bad one.

So you never heard of Victor Hugo; yet there is such a man, author of "Hans of the Island," and "Bug Jargal," and the "Hunchback of Notre Dame," great world-wide stories; and of "Lucrezia Borgia," "Angelo," "Le Roi s'amuse," "Ruy Blas," "Hernani," "Marie Tudor," etc., great world-wide plays. And you never heard of him, or know him by his name, not his art?

Scribe has produced short stories, which are models of narrative skill. "Maurice," "Carlo Broschi," "Judith," and others; and a grand romance, "Piquillo Alliaga."

Gerard de Nerval, Auguste Maquet, Paul Meurice, Michel Masson, Paul Féval, and twenty more living Frenchmen, are novelists and dramatists, dramatists and novelists.

Octave Feuillet is mathematically equal in both those lines of art.

In England, did you never hear of Mrs. Behn? She was

a woman of genius. Her eighteen plays filled the theatre. Her stories, almost as numerous, filled the salon, and fetch a high price now, though two hundred years old. Southerne's two best and most successful plays were but two of this lady's stories dramatized; and her double talent earned her, in the year 1689, an honour your method of criticism will never earn you.

"Pour avoir su dans ses beaux jours

Réussir au grand art de plaire" she lies in Westminster Abbey, and you never heard of her.

Before her day, Greene, the dramatist, wrote stories, one of which Shakspeare admired enough to build "The Winter's Tale" on it.

There is another countrywoman of yours, Mrs. Inchbald. Did she not write "The Simple Story," and "Nature and Art"? two exquisite tales; or is it "Every One has his Fault," "Lovers' Vows," "Wives as they were," "Animal Magnetism," "To Marry, or not to Marry," she did not write, and a dozen more plays that go so irrationally by her name?

The poet Gay was no inconsiderable master of fiction in both walks. He, too, filled the stage, and the drawing-room. Vide Johnson's "Life of Gay." Reed and Jones, two learned gentlemen, being without a theory on the matter, are good evidence; and they say, "As, among his dramatic works, his 'Beggars' Opera' did at first, and perhaps ever will, stand as an unrivalled masterpiece, so among his poetical works, his 'Fables' hold the same rank of estimation, the latter having been almost as universally read as the former was represented, and both equally admired." — *Biographia Dramatica*, Vol. I., p. 271.

Among the clergy, Dr. Young in the last century, Dean Milman in this, have given clear indications of this double faculty, so impossible in theory, and only frequent in fact.

The stories, "St. Giles's and St. James's" and "A Man Made of Money," was it Mr. Jerrold who did not write "Black-Eyed Susan" and the immortal "Rent Day," with "The Cat's Paw," and "The Bubbles of the Day," and "Time works Wonders," — comedies as feebly constructed and as witty as Congreve's? Among lighter but able writers Albert Smith, Shirley Brooks, Mr. Oxenford, Mr. Brough — oh! and

there's myself; I saved Drury Lane Theatre to this nation with a play, and laid the foundation of all E. T. Smith's greatness; yet I have produced a story of which the public has taken seventy thousand copies, and I —

You don't want to hear about the small fry? Well, but what can I do? You don't know the big fish, except by name: so I was coming down to your level.

Well, then, did you ever hear of an artist called Goldsmith? Is it fixed as fate in the depths of your mental cavity that he did not write two immortal comedies, called by the non-reasoning observer "She Stoops to Conquer" and "The Good-natured Man"? Then why do men play them to this day under his name? Or is it "The Vicar of Wakefield" he did not write?

Well, poor Goldsmith died before you were born. But it is odd you have never dipped into Sir Edward Bulwer Lytton's works. "The Lady of Lyons" is by far the most successful play since Shakspeare. "Richelieu" and "Money" are dramatic masterpieces. Is it a severe intestinal truth, coeval with chaos and the primeval father of all jackasses, that "Eugene Aram," "Lucretia," "Paul Clifford," "Pelham," "The Caxtons," and other master novels, cannot be from the same hand?

Did you never hear of Jules Sandeau? novelist and dramatist.

Did you never hear of George Sand? novelist and dramatist.

Did you never hear of one Balzac? His play of "Vautrin" was a success; "Mercadet," a vast success in England as well as France; "La Marâtre," a thrilling success.

Poor Dumas! he has not only produced immortal stories and immortal plays, each by the dozen, but also a son, who has shown himself master of the story and the drama. But what avails that treble fertility? If five generations of Dumas, novelist and dramatist, were now on earth together instead of two, our puppy-dogs blind drunk with moonshine would manage to look at them all, and not see any one of them.

Chorus of Cephalomants.

Full moonlings we
From over the sea,
From the land where chimeras in plenty be;

The land of a single Kant with a K,
 And a hundred Cants with a C.
 Bacon be dumb,
 Newton be mum,
 The worth of induction's a snap of the thumb.

This list of dramatist novelists might easily be trebled ; but it is not necessary. These few instances, skimmed off the surface of my memory, are as fatal to that pernicious piece of cant as numberless examples would be. The worst of it is that one stupid current cant like the above closes the door to a dozen useful truths.

How do reasonable men discover causes ?

By noting repeated coincidences.

Let us apply the Solomonian principle in this form.

The following facts can be deposed to on oath : —

A. In England there has never been at one and the same time a good market both for plays and novels : but in France at the present moment there is the best market for dramas that ever existed in the world. The highest prices and the most honour.

B. In France there are at this moment five times as many capable dramatists as ever wrote at one time in that same France when the market was poor.

C. In France, at the present moment, there is also a first-rate market for the novel. It is paid first as a feuilleton, then as a book.

D. In France there are abundance of novel writers.

E. In the one country, which has two good markets, the leading novelists are nearly all dramatists. But the dramatic market being somewhat the higher of the two, several prolific dramatists are not novelists ; for instance, Ponsard, Augier, Melesville, Anicet Bourgeois. Scribe, too, has written only one long novel, and more than three hundred plays. Not nature alone, but habit and the market direct men's labours ; and authors are men.

F. The French judges, acting loyally up to the spirit of their Copyright Acts, will not allow a French author to be juggled out of his legal property, directly or indirectly. They have knocked the " ABRIDGMENT SWINDLE " on the head, — *Roret v. Arnaud, Roret v. Bailly and Babinet* ; and they knocked " the DRAMATIZING SWINDLE " on the head, — *Paul de Musset v. Lefranc* ; and " the ADAPTATION

SWINDLE" on the head,—*Beaudouin v. Vatel*, and *Victor Hugo v. Monnier*.

Thus in France *Propriété* spells property, without respect of persons, as it will in the next world. An author's production is as sacred from thieves and jugglers as a carpenter's—in France.

G. In France, marvellous coincidence that sixty thousand moonstruck polysyllabic puppies would never have fished out of the depths of their shallows, novels are constantly dramatized, and *are nearly always dramatized by the novelist* alone, or in collaboration. There are about ninety French novels on the publishers' lists so dramatized by French novelists for their own benefit within the last twelve years. Many of these have been vast dramatic successes, and brought fortunes from the theatre to the novelists. "*Mademoiselle La Séguière*," "*Monte Christo*," "*Les Mousquetaires*," "*Roman d'un Jeune Homme Pauvre*," etc., etc., etc., etc., etc. How do you account for that, moonlings mine?

H. In England, the old judges, some years ago, under pretence of interpreting the statutes (they bear no such interpretation), virtually repealed them on many points: they passed a law of their own, by which "the abridgment swindle" is protected in the courts, provided it is done with Spartan dexterity: *in that case, if, by its superior cheapness, it destroys the original property, all the better*. This is the acknowledged principle of the infamous judgment in the case of Dr. Hawkesworth's "*Voyages*," piratically abridged; — *Strahan v. Newbery*: also in *Dodsley v. Kinnnersley*. It is cited by text-writers as a leading principle of those idiotic and inhuman judgments, viz., by Godson, p. 344, with approval, and by Mr. Curtis, the American jurist, with just contempt. Curtis on Copyright, 267. Monstrous, idiotic, heartless, illegal, and iniquitous as it is, and the laughing-stock of all foreign jurists, including brother Jonathan, *it is the working law in England*; and, in an English court you might as well hope to prevail against it with the eighth commandment of God the Father, or the golden rule of God the Son, as with the statutes of the British realm. The property of authors is governed by judges' law, not by the Acts of the realm, still less by impartial justice, as between man and man, workman and workman. *The above unprincipled principle is the exact contradictory of the principle upon which all*

French decisions in copyright are founded, without one recorded exception. When once that monstrous principle was invented, copyright lost every genuine feature of legal property in England. Copyright is settled by the law as "*personal property*" of a character so sacred, that, unlike meaner personal property, it can pass from its creator (during the term of its legal existence) only by written assignment; but by the heartless perfidy and disloyalty of these old judges, whom Heaven confound, it was, by an act of rebellion, not interpretation, degraded *infinitely below every known kind of personal property*, the law having placed it above them all in technical terms, that no lawyer who is not a rascal can pretend to mistake. All indirect swindling of authors received an impulse from this judicial fraud. Of "the abridgment swindle" "the adaptation swindle," "the novel dramatizing," and "drama novelizing" swindles, are natural and logical consequences. See now how feeble nature is in these matters, how strong is law, if good for good, if bad for evil. No English novelist dare sue a pirate for swindling him out of his right to dramatize his own work.

I Mark the coincidence that follows! There are some sixty English novels dramatized, and *not one by the author*. Scott was swindled out of his characters and plots by the dramatic pirates in spite of his teeth, and never received one shilling for the use of them. Sir E. L. Bulwer has been swindled out of "Paul Clifford," and other works. Mr. Dickens has been swindled out of the right of dramatizing "Pickwick," "Oliver Twist," "Nicholas Nickleby" (a), etc., etc., etc. Ainsworth Smith, and many more, have been served the same. I have just been juggled out of my right to dramatize "It is Never too Late to Mend." Several pirates, without one name to their several backs, have sold versions of *me* to the theatres. Several managers, knowing me to be a dramatist, and jealous of my children, have treated with these three pirates for versions of *me*. But not

(a) The one exception is "The Tale of Two Cities," which has been dramatized with his consent by Mr. Taylor. Well, it was no sooner done and paid for by a respectable manager than I find some heartless person advertising a version of it for a few shillings to all the theatres (in the "Era"). Nobody attempted to stop this. It is England, nation of author-swindlers, land empty of jurists and full of pettifoggers, whose motto is, "Whoso swindleth an author doeth the public a service."

one with *me* for *me*. The distinguished author, an acknowledged dramatist, is the one man not allowed to dramatize a dramatic novel by that distinguished author. The reason is, in England he can be *hopelessly undersold with his own art and labour* by barren rascals, who could never compete with him but by help of his own invention and labour. Vive la France! She has a great drama, because she is morally worthy of one: because she has the sense, the humanity, and the probity, not to let her theatres swindle, and outlaw, and drive off the stage by means of their own talent, stolen, those who alone can give any nation a national drama. Mr. Dickens alone is man enough to have renovated the English drama, and would, I think, have done so, years and years ago, if he had not been steadily defrauded out of his dramatic rights from the first hour he wrote.

Mr. Dickens is the most extraordinary artist, in one respect, England has produced. He is a first-rate writer of fiction, and a first-rate actor. England has bred just five men of this sort in three hundred years, — Shakspeare, Cibber, Macklin, Garrick, Dickens.

We will go through them. Shakspeare as a writer was — Shakspeare. There is an impression that he was a bad actor; but this arises from the loose way people have of using and interpreting language. The words are, "Shakspeare, who I have heard was a better poet than actor." Now he might be that, and yet a very great actor. However, we have legal evidence of the point. He played the Ghost in his own play of "Hamlet." Therefore he was a respectable actor, and there was a better actor in the theatre, the actor who took the part of Hamlet. He also played the secondary part of Adam in "As you like it." But his admirable advice to the players, coupled with his playing "the Ghost," are against his being a poor actor. Cibber was a good comic writer and actor, but, by universal confession, a ridiculous tragedian. Macklin a great actor, but little more than a farce-writer. Garrick a supreme actor and an elegant writer, but the last on a small scale as to invention. Mr. Dickens is a great actor and a great dramatic novelist, *i. e.*, a novelist, out of all whose early novels good plays have been cut with the scissors by scribblers destitute of dramatic invention. Those, who do not know that such a dramatic novelist and great actor under one skin are a heaven-born dramatist, have

my leave to retire at once from criticism, and dissect moonshine; the fine arts will always be a dead letter to them. Mr. Dickens could not afford to write an original work for the stage, because his labour is at least twenty times better paid by the serial. But, the story written and disposed of in the higher market, he could very well afford to give it a dramatic shape. A little consultation with an intelligent manager as to form and details, a good deal of scissor work, a little pen work, and in his case, (he being the most dramatic of novel writers), the thing would be done. Now mark the consequences. If those dead judges had not, while they lived, undermined and corrupted the law, and legalized *indirect* swindling of authors, the managers would have been compelled to come to Mr. Dickens for his children instead of suborning kidnappers; just as the French manager had to go to Nice the other day and invite Alphonse Karr (a) to drop his tulips, and dramatize his "Penelope." (Vide "Le Figaro," Dec., 1860.) Thus invited, it stands to reason that a gentleman who loves the drama enough to become a great actor, would love it well enough to dramatize his own child instead of letting scribblers mangle it. But that is not all; being an actor and a great author, he must be one of the best rehearsers in Europe.

Original authors' hints to actors are all intrinsically valuable; but they miss fire, being nearly always spoiled by a false delivery and gesture. But here is an author, who can *show* his own bright conception to an actor. To the effect of this on a national stage there is scarcely a limit. Known limit there is none. He would have infused fresh blood into the withered old veins of our stage, which remains conventional for want of personal collision with inventors of this class. The French stage has this advantage. Another consequence; Mr. Dickens, like most great and genial spirits,

(a) Of all the novelists that ever wrote, this one, Balzac and Fielding excepted, reads least like a dramatist. But see the power of good laws, and loyal judges. Invited to dramatize his own child, Mons. Karr, like Balzac, knew perfectly that he must thoroughly change his hand to shine in the theatrical form. He faced the difficulty, did the work, *his first dramatic attempt*, and achieved a great success. ("Les Débats," 16 Jan.) In England they would have stolen his child nineteen years ago, and sworn he could not dramatize it himself. And the Cephalomants would have endorsed the kidnappers' cant. "The novelist is never a dramatist, because buzz! buzz! buzz!"

has a school, and in that school are some good men. Many of them would have followed him. Mr. Wilkie Collins in particular is evidently a born dramatist, and his chief would have smoothed the road to the stage for him and others. The genius who, nearly twenty-five years ago, changed the face of the English novel, sharpened our sight, widened our sympathies, and coloured every one of us, more or less, detractors and non-detractors, was just as capable of renovating the stage, and raising it, and enlarging its sphere, its mind, its eye, its heart, its form. The natural roguery and heartlessness of the Anglo-Saxon where authors are concerned, restrained by too mild laws, and encouraged to evade the letter and spirit of those laws by those partial old judges, uttering not the voice of the Legislature, but the brutal prejudices of the people, this it is that has robbed the stage up to this day of that inestimable advantage. As a preliminary towards curing this idiotic fraud, I earnestly entreat my readers to speak of it, and write of it, as what it is,

THE KIDNAPPING SWINDLE.

Polite circumambient phrases water villany and folly, and keep them alive to all eternity. Calling smooth, subtle, rascality by a rough and true name blights it in one year, fifty, or a hundred.

Some years ago there was a kidnapper called Duncombe, a little theatrical bookseller. He kidnapped every play that came out, and mangled it into a dwarf story. Now mark the ramifications of fraud, and see how necessary it is in copyright *obstare principiis*. Mr. Bayle Bernard brought out a play, "St. Mary's Eve." Duncombe kidnapped Mr. Bernard's child, and sold the plot, in a somewhat distended form, as a story. A very honest and intelligent gentleman bought this little story as an original narrative. "Why this would not be a bad plot to found a play on," said he. He wrote his play and sold it to Mr. Kean, who was not then a manager. Mr. Kean brought it with him to the Haymarket Theatre. But when they came to rehearse it, "Hallo!" said Mr. Webster, the manager, "this will not do: why this has been done before, and at this theatre." "Impossible," said the author, "I founded it on a little *story* I bought for sixpence." However, the piracy was distinctly

proved to him, and I believe certain alterations were made in the theatre. Thus you see in fiction indirect piracy is not only effectual robbery, but ramifies into direct piracy. Besides the theatrical managers, most of whom are kidnappers, we have now a half a dozen gipsy shopkeepers prowling about for authors' children, and selling them in shops. See their unblushing advertisements in the "Era."

Such is the remorseless person, who, although he knows Madame Celeste has just set this nation of pirates a better example by treating honestly with Mr. Dickens and Mr. Taylor for "The Tale of Two Cities," is so far from imitating her, that he instantly employs a scribbler to undersell hopelessly the property she has made hers by purchase; advertises for sale to town and country managers "The Tale of Two Cities," a play, for *fifteen shillings*.

Another kidnapper (this one is a bookseller), does the trick on both sides the hedge. He has on sale sixty-three stories. They lie (in more senses than one) on my table. They are all mangled plays, and the title of each play is taken as impudently as the matter. Among these stories I see "Jonathan Bradford," "The Vampire," "Susan Hopley," "The Lady of Lyons," "Martha Willis," and a score more chopped bodily out of copyrighted plays; also twenty-eight plays, some of them from copyright plays, others from copyright stories. The direct and indirect pirate is one and the same individual: it is only those gnat-straining, camel-swallowing old gentlemen that ever imagined there was any distinction in sound law or morality between them.

Among the plays are "Susan Hopley," "Black-eyed Susan" (direct piracy), "Rookwood," "Jack Sheppard," "Belphegor," "Little Dorrit," "Oliver Twist," "Minni-grey," etc., etc.

To all these plays are affixed lists of actors, who, it is pretended, have played them; whereas these ladies and gentlemen played in rival versions, probably in versions of which these are unfair copies: "saddling their neighbour's horse to carry their own wife to market."

"Oliver Twist" is described as "a domestic drama, dramatized from Boz's celebrated work of that name, and as performed at the City of —." Here a fib seems to have died out for want of fuel — the only known history of piracy. But with "Jack Sheppard" —

a bolder flight; rising, no doubt, with the recollection of that great example.

JACK SHEPPARD.

A Drama in Three Acts.

WILLIAM HARRISON AINSWORTH.

He does not say that Mr. Ainsworth wrote it in form as he sells it, but you see he words it so as to give his customers the impression. Time was when a thief was hanged his career ended. But Jack Sheppard, though dead, yet filcheth, Purvise duce.

In "Dombey and Son" this mousing owl hawks at the royal falcon with a courage worthy of a better cause. He steals the great master's own name as well as his matter and title, and sells that name, title, and matter to simple Soho — for a penny.

Mark the naïveté of the second title, which is *not* Mr. Dickens's. *Good Mrs. Brown, i. e., good at our line of business.*

DOMBEY AND SON;

OR,

GOOD MRS. BROWN, THE CHILD STEALER.

A DRAMA, IN TWO ACTS.

From the Pen of the inimitable CHARLES DICKENS, Esq. As performed at the Royal Strand Theatre.

(Woodcut.)

(Woodcut.)

"Mrs. Brown, the Child Stealer, proving the innocence of Walter Gay, and accusing Carker (Dombey's Managing Clerk) of Forgery." — *Scene 6, Act II.*

DRAMATIS PERSONÆ.

| | | | |
|-----------------------------------------------|-------------------|----------------------------------------------------|-----------------|
| Mr. Dombey (<i>a widower</i>) | Mr. C. Williams | Withers (<i>the Man Page to Mrs. Skewton</i>) | Mr. Douglas |
| Old Solomon Gills | Mr. Yarnold | Mrs. Skewton (<i>a Lady with a free heart</i>) | Mrs. Huntley |
| Walter Gay (<i>his Nephew</i>) | Mr. Tyrol | Edith Granger (<i>her daughter</i>) | Miss A. Atkins |
| Captain Cuttle (<i>Sol's friend</i>) | Mr. P. Rogerson | Polly (<i>alias Mrs. Richards, a wet nurse</i>) | Miss Gilbert |
| Mr. Carker (<i>the manager of the Firm</i>) | Mr. H. Reeves | Susan Nipper (<i>Nursery-maid at Dombey's</i>) | Mrs. H. Reeves |
| Bob Biler (<i>the Charitable Grinder</i>) | Mr. A. Richardson | Mrs. Brown (<i>the Child Stealer</i>) | Harwood Cooper |
| Major Bagstock | Mr. Huntley | { Act 1. Miss L. Coleman Act 2. Miss J. Coleman | |
| The Native (<i>his servant</i>) | Mr. Fitzgerald | | Florence Dombey |

TO COUNTRY MANAGERS. — The entire Acting Copyright of every Drama published in the "PENNY PICTORIAL PLAY," is vested in the Proprietors, who are willing to give a written permission (pursuant to the Dramatic Authors' Act), upon moderate terms, which may be known upon application to the Publisher.

By the notice to country managers, it would seem kidnappers hold the same theory of the true title to literary property as my Croydon plaintiffs. Unless you steal it, it can with propriety be tampered with. But if you go through that ceremony it bars theft from you. You have got the devil on your side now.

Le vol, c'est la propriété.

As the bee sucks honey out of a dandelion, so my mind extracts a drop of comfort from kidnappers and adapters *copyrighting plunder*.

Since the sense of literary property lies somewhere in the slipperiest conscience, it must be in nature and in honest men, though latent at present, and will come out some day in a less perverse form.

A TALE OF TWO CITIES, a New Historical Drama, adapted from Charles Dickens's work. All Lessees and Managers of theatres who are subscribers to Cumberland's list of acting dramatic pieces may obtain a MS. copy of the above within one week of their remitting 15s. for the same, and they will have the right to perform the piece under their contract for the year 1860.
Apply and remit to F. A. DAVIDSON (Agent), 13, Peter's-hill, St. Paul's, London, E. C.

It would appear by the above that certain managers of theatres have formed a sort of "kidnapping association." Observe, Madame Celeste, being an English manager, but a French woman, has deviated from the national custom, and has honourably purchased the sole right to dramatize "A Tale of Two Cities," and play it in London. She has not paid less than *one hundred and fifty pounds* for the piece; and here is a monster that, *because* she has dealt so honourably, offers directly a similar article with the *same title* to any theatre for *fifteen shillings*. What inventor or honest purchaser can compete with this? In France this black-guard would be not only fined, but probably imprisoned. In England who cares but Mr. Reade? Who else sees the consequences to the nation? Au revoir, good Mrs. Brown, good Mr. Purkess, good Mr. Davidson; pursue your little avocation! If you are not punished in this world, don't be discouraged; you will get *impartial* justice in the next. There at least the eighth commandment will be read to you as it is in France, and not as in England at present.

Thou shalt not steal, except from an author.

The following is from an American newspaper: —

"Music and the Drama. — Is it a sin to write a book? or are authors in literature peculiarly good people, set aside by Divine Providence for the endurance of peculiar trials? One of these propositions we must surely answer in the affirmative; else why should such a horrible judgment (or loving chastisement, as the case may be) as the dramatization of a popular story in its writer's lifetime be visited upon its writer's head? What, for instance, has Charlotte Brontë, or William Makepeace Thackeray, or Charles Dickens done that they should be doomed to undergo all the ruthless literary barbarities that it may enter the mind of a dramatizer to conceive? Was the production of 'Jane Eyre' a grievous error for which atonement must be made? Can we regard 'Vanity Fair' in the light of a prodigious transgression, deserving of condign punishment? Must we honestly believe that 'David Copperfield' and 'Bleak House' are crimes of deadly hue, for which the perpetrator's soul, even in this world, is to be delivered up to worse than fiendish torture? And if not — if we are to come to the conclusion that the composition of a first-class work of fiction is a good deed — that our beloved humourists and their womanly peer have been benefactors of their time and of the future, whom it must please Heaven to look down upon with an eye of especial favour — if these things be so, then in what manner should we look upon the ink-stained mercenary who, for a hireling's price, impales their pet offspring on his free lance, slashes them with his dishonoured sword, blows their brains out with his uncouth matchlock, mangles and anatomizes them worse than ever Sepoys did poor British babes in India? If we stand transfixed with horror at the mere recital of unknown child-mutilation by some ferocious follower of Nena Sahib, why should we behold with indifference or complacency the disembowelling and massacre, upon a public stage, of the loved and treasured bantling of a Dickens brain?"

I shall be glad to know the honest fellow who wrote this, and give him a shake of the hand across the Atlantic, if he will let me.

CAP. XV.

THE only real reasons why every other art rises in England, and the drama stands still are "the adaptation swindle" and "the kidnapping swindle."

The first enables men of no dramatic invention *hopelessly* to undersell the English dramatic inventor by means of stolen French invention; and the second to undersell him *hopelessly* by means of his own invention stolen.

The system of artificial oppression, by which these two frauds grind down and stifle the English dramatic inventor, has no parallel beneath the canopy of heaven. Nor is there any known art, either fine art or mechanical, that similar swindles, if permitted by law, would not extinguish in any nation, either in a year or two, or in a month or two. The potato itself would soon be rooted out as a national production were stolen potatoes admitted into the market; because the stolen potato could always be offered at a profit, yet beneath the bare cost of honest production.

There exist featherless bipeds that call this "free trade." Muddleheads! This is freebooting, not free trade. This system would destroy free trade just as inevitably as it would trade encumbered by 50 per cent. import duties. Apply the test. I enter into the spirit of free trade; I make a large purchase of French wines in cask under the new tariff, and my countrymen are to benefit by the duty being taken off. I put the wine into English bottles, and sell it at a dollar per bottle: clear profit 2*d.* per bottle. A pirate steals a similar cargo, and puts it into English bottles, for which he pays. He offers it at 3*d.* per bottle, making a profit of three half-pence per bottle. He is allowed to say in all the newspapers it is the same thing I charge a dollar for. What becomes of the free-trader, who buys the wine duty free and also the bottles? Can he stand against the freebooter, who steals the wine and buys the English bottles?

Nor does it matter in this argument one straw whether it is money or labor the honest trader has invested in the essential commodity. If I live by the sale of my labour, and if I spend *five hundred hours' labour* on a production, the sale of which is to compensate that labour, and pay the debt I have incurred to my butcher, baker, etc., by thus applying my labour, the pirate who steals a similar article from France, and makes it English with *fifty hours' labour*, can sell it at a profit nine times cheaper than I can sell it without going to gaol; and so he elbows the honest inventor out of the dramatic market, and drives him elsewhere. Men of genius will not, in any number, so apply their labour as to go to prison for it; and that would be the probable fate of Shakespeare, Marlowe, Massinger, and Fletcher, should they come back to earth, and endeavour to live by writing *original plays* in England, under "the adaptation swindle" and "the kidnapping swindle." A single such inventor might live, but not half a dozen. And take notice, Englishmen can all see this where any nation but England is the pirate. We warned Belgium she would extinguish her literature if she played the same ansero vulpine game in all literature we are playing in dramatic literature. She persisted, and did extinguish her literature. What is the difference between her and England? None in our favour. The only vital difference is this: First, She did not shuffle and tamper with treaties, but did her roguery like a man, and we do it like a pettifogging sneak. Secondly, She has lately read a noble recantation, and we have not. Belgium has formally abjured piracy; and feeling that she has artificially suppressed Belgian invention, as we continue to do English invention, she is now giving the inventors artificial encouragement: has just offered prizes for native productions, in Flemish or French, upon a graduated scale.

I learn from "The Times," April 10, that the higher prizes are to be for the compositions in French, on account of the severe competition the Belgian inventor must face in that language. Daylight breaking in!

Thus you see common sense and uncommon honesty have dawned on Belgian statesmen; and why not on ours?

When I was at Antwerp in 1848, there were eight hundred painters in the town, and not twenty writers. Of these painters two or three hundred would have made better writ-

ers than painters. Eight hundred to twenty — that proportion was never in *nature*. The thumbscrew of piracy was robbing a deal of paper, and spoiling a sight of canvas there. Inventors will not waste their brains competing with thieves. Invention is too hard and laborious; theft too swift and easy.

Then some people ask me, Do you really think giving the French dramatist property in his works would make so great a difference?

I don't think it; I know it.

It would make a wonderful difference. It would destroy *fences' prices*. At present a playwright selling to a manager is literally a thief selling to a fence, or receiver of stolen goods. The last gaol I inspected I talked with a thief who had stolen five thousand pounds worth of jewelry. I asked him what the fence had given him for them? "Thirty pounds, sir," said he. Ἐξ ὁμοίων δροια. The average price of a new play in many flourishing London theatres is now four pounds. This was given in evidence in the case of "Shepherd v. Courtenay," Nov., 1856; and I will find twenty witnesses to depose to the truth of it on oath before either House of Parliament.

This Courtenay it seems was employed by Messrs. Shepherd and Creswick to go to Paris and appropriate pieces from the French authors gratis. He improved on his instructions: he not only appropriated from his allies, but from his employers: kept a MS., and went and resold one of these pieces to Mr. Conquest, of the Grecian. So much for laws which sap the great foundations of morality, and hope that only a part of the house will tumble down.

This same writer (by no means devoid of talent) sold two pieces out and out to a provincial manager of my acquaintance for one pound a-piece. On Barnett and Johnstone suing me for five hundred pounds, I wrote and asked the provincial managers whether that sum was the price of the muse Johnstonian. I received from most of them marks of sympathy highly honourable to them, for which I now publicly thank them, and beg them to command me in return. They furnished me with a mass of documents, which I should like to lay before Parliament. They would answer a nobler purpose than that I got them for. They prove that piracy does nobody any good; drives away the inventor and starves the pirate.

Here they lie on my desk, piracies committed on piracies; "smaller than mites, on mites they feed;" and to what end? Three separate lists of plays, from sixty to one hundred in number, offered to a manager for thirty shillings and one pound per annum. Here is five-hundred-pound Johnstone himself selling five new pieces out and out, with the MSS., for three pounds to one manager, and offering himself and a female relation as actors, together with all his pieces, for three pounds per week, to another. See the evidence, *Barnett v. Reade*; he sold his piratical version of my piece, MS. and all, to the Victoria for two pounds. I had to pay three pounds fifteen shillings to a *copyist* for a copy of it. Thus does piracy elevate the fine arts above the mechanical arts.

And now mark. Here is one of the pirates selling what I happen to know to have been an original English composition, for two pounds. Another poor devil sends a MS. pantomime, also original, for thirty shillings; and, if not approved, offers to write "another, and another, and another," sooner than a rival shall win the thirty shillings. But for piracy, and the system of fences' prices it has introduced, he would have had fifteen pounds for it. They are starving themselves, as well as massacring the inventor and disgusting the better class of spectators. N. B. When a pirate turns honest for a moment, and invents, retribution falls on him, he gets only the price of stolen goods for his invention. Compare all this, and much more to the same tune (which I once more offer to lay upon oath before Parliament), with the piece of legal evidence from "*Literary Gazette*" as to the effect of book piracy in translations, vide p. 28. *Ἐξ ὁμοίων ὁμοία πέφυκε γένεσθαι*. From like causes like results in every branch of art, and in every case just the opposite of what the Cephalomant, in Parliament and out, expects.

By this system of prices the public loses everything and gains nothing; for in the theatre the public pays a set price, the same whether the play is dirt or gold, and in the arts "nasty" is Siamese twin to "cheap;" and no law, however roguish, will ever, in the arts, separate those two things which God has joined together by a chain of natural and intelligible consequences.

CAP. XVI.

THE Cephalomants tell you that France owes her drama to nature. She is more dramatic by force of blood than England. This is not only a falsehood, but, as usual, a notorious one.

History is a dead letter to Cephalomants. Their system enables a man to *unrealize* all he knows. But to get into this state of factitious ignorance is not the science of a statesman, nor a critic. The order of nature is clearly that of the spontaneous drama. The spontaneous drama is the unpaid drama. This flourished,

- 1st. In England.
- 2nd. In Spain.
- 3rd. In Italy and France.
- 4th. In Holland.
- 5th. In Germany.

Until lately it was received, on the authority of Pasquier and Brantôme, that the first sacred drama played in France was "The Mystery of Christ's Passion," performed in St. Maur's in 1398. But this was perhaps merely the first public performance before a mixed audience, or by a regular company. Monsieur le Grand, hunting closer, has pronounced positively, "dans le treizième siècle nous avons déjà des drames ;" and, unless my memory betrays me, he has made his words good by citing from them in a preface to a book of minstrelsy.

I have, therefore, ventured *pro tem.* to bracket France with Italy, who, according to Pancirolli, cited by Dodsley, played her first sacred drama A. D. 1264. I say *pro tem.*, in case some Italian antiquary should discover that the Italian drama in question had been also preceded by private performances in that country. Nothing is more likely.

That Spain was in advance of both these nations is proved by good legal evidence. A law of Alonzo the Wise

passed in the middle of the 13th century (teste Luzan), which forbids the clergy to act "juegos de escamios," but permits them to represent the birth, passion, and resurrection of Christ. The juegos de escamios may mean low secular buffooneries, or, more likely, the buffoonery and deviltries which were introduced into more sacred dramas by their mayas, and diablillos, to relieve the weight of sanctity. The same strange desire to mix a little buffoonery with piety occurs in the early miracle plays of all countries. Indeed, it is a fixed trait in human nature (a). Holland would like to pass off her Reden Ryckers, or banded minstrels, for dramatists, and so get back to the 12th century. But this won't do, Mynheer. Spain might as well propose her trobadores, France her provençal minstrels, and England her Welsh bards, as dramatists.

Into Germany the first sacred drama was imported by the English, and played by English actors before the emperor, 31st January, 1417.

In England, the first notice of an acted play by name is to be found in Matthew Paris, and in Bulæus, cited by Strutt, Wharton, Reed and Jones, Ritson, Collier, and all our antiquaries. Matthew Paris, writing about 1240 the lives of the abbots of St. Albans, tells us how Geoffrey, afterwards abbot, but at this time preceptor of the school at Dunstable, made a miracle play upon St. Catherine: "*Quendam ludum de Sanctâ Katerinâ, quam miracula vulgariter appellamus, fecit.*" The chronicler adds that, to give effect to the performance, he borrowed ecclesiastical vestments from the Abbey of St. Albans; so that it was a *bonâ fide* dramatic representation: and, as my Puritan friends derive so little pleasure from dramatic subjects, let me hope to give them a moment's innocent satisfaction by informing them that after the play there was a fire, and several rich copes, and other vestments, borrowed from St. Albans, were burned, to the infinite distress of the poor dramatist. This is proved

(a) The vice jumping on the devil's back, or thumping him with a bladder, between the most sacred scenes, is an instance. At present the instinct is softened down by education; but it survives. See how men run to hear a comic saint preach, soit Hill, soit Spurgeon. They always did: they always will: they must. Such tragi-comedians hit nature in the bull's eye, without knowing how or why.—Biglow Papers.

by other dates to have been about the year 1110, rather earlier than later. If this had been, as the authors of the "Biographia Dramatica" suppose, the first played in England, it would not prove much, for Geoffrey, I find, was a Norman monk, and a member of the University of Paris, who had lately settled in England. Then it becomes a fair question, did he import a new custom? or, like an able man, adapt himself to one he found in his adopted country? And this is settled the latter way by two pieces of evidence. Bulæus, describing the above, states distinctly that the miracle was a custom of Dunstable School, not an invention of Geoffrey: "Non novo quidem instituto, sed de consuetudine magistrorum et scholarum." And, secondly, in France we have at present no trace of it, either in the hands of Geoffrey or any other, till more than a century later. Still who can swear in 1860 what passed within walls of continental convents in the "night of ages"?

And, therefore, to go from performances within the walls of convents to public exhibitions, which are far more satisfactory evidence of a national drama, Fitz-Stephen, a monk, writing the life of Thomas à Becket about the year 1175, shows us that public performances of this character were in full swing in the 12th century. His words are, "Lundonia, pro spectaculis, pro ludis scenicis, ludos habet sanctiores, representationes miraculorum quæ sancti confessores operati sunt, seu representationes passionum quibus claruit constantia martyrum."

This is evidence that the drama, in a form of art, had taken root; and it is borne out by proofs of every class. William de Waddington, writing about 1240, lashes the clergy for it:—

Un autre folie apert
 Unt les fols clers cuntrové
 Que miracles sunt apele
 Lur faces unt la déguise
 Par visen lie forsene
 Que est defendu en decree,

etc., a long tirade in the above seductive dialect.

If the miracle play originated in London or its vicinity, it did not stop there, but spread far and wide in the genial soil of this nation. About the year 1268 it became a civic

institution in Chester, York, Coventry, Newcastle, Durham, Lancaster, Leeds, Preston, Kendal, Bristol, Widkirk, Cambridge, Manningtree, Witney, and some other towns.

Like our law pleas, and most of the great business of the realm, they were done at first in French, or perhaps I should say Gaulois, which was, indeed, the language of all the better sort, and above all of the clergy. But in 1327 the burghers succeeded in getting permission to have them in English. This lingual victory was celebrated in great pomp at Chester, a town which retained the miracle play for several centuries later.

The several acts of the play which inaugurated the above event in 1327 were undertaken by the guilds of the town; to wit:—

The Fall of Lucifer, by the Tanners.

The Creation, by the Drapers.

The Deluge, by the Dyers.

Abraham, Melchisedek, and Lot, by the Barbers.

The Salutation and Nativity, by the Wrightes.

The Shepherds feeding their Flocks, by the Painters and Glaziers.

The Three Kings, by the Vintners.

The Oblation of the Three Kings, by the Mercers.

The Killing of the Innocents, by the Goldsmiths.

The Purification, by the Blacksmiths.

The Temptation, by the Butchers.

The Last Supper, by the Bakers.

The Blind Men and Lazarus, by the Glovers.

Jesus and the Lepers, by the Corvesarys.

Christ's Passion, by the Bowyers, Fletchers, and Ironmongers.

The Descent into Hell, by the Cooks and Innkeepers (patriotic!).

The Resurrection, by the Skinners.

The Ascension, by the Tailors.

Anti-Christ, by the Clothiers (the inventors of devil's dust).

Day of Judgment, by the Websters.

This triumph of the Anglo-Saxon tongue was not achieved in one year, probably not in twenty. The popes of Rome

were applied to once, if not twice, by an emissary or emissaries from Chester, and refused. It was at last conceded, perhaps in compliment to the reigning monarch, Edward the Third, who favoured the English tongue. It was he who, many years later, forbade law causes to be pleaded in French as heretofore (a). The "Guary miracles" in Cornwall bear a ruder and more primæval stamp than the Chester miracles, but arose later than the London plays spoken of by Fitz-Stephen; and of these I believe them to be translations from Latin into Cornish. Under the impression that their place is between these two, I subjoin the only known account of them. At the period of this account (Queen Elizabeth's reign), Cornish tradition assigned no date to their commencement: "They raise an earthen amphitheatre in some open field. The country people flock from all sides, many miles off, to hear and see it, for they have therein devils and devices to delight as well the eye as the ear. . . The players conne not their parts without booke, but one, called the ordinary, followeth at their backs, with the booke in hand, and telleth them what to say" (b).

The "Guary miracles" were in Cornish, a genuine popular national drama.

So much for nature. The author was not paid for these compositions in any part of the world; and that England took so marked a lead over every country but Spain, is good evidence that by *nature* she is more dramatic than any other nation but Spain. That same nature crops out in our day from time to time. I will give you two specimens that occurred in one month this very year, 1860. The first is from Scotland, stronghold of Puritanism. I cut it out of a journal: "On Tuesday last the Rev. Mr. Weddell, of Girvan, read from his own pulpit a poetical tragedy, of which he is said to be the author, called 'King Saul.' It is a five act tragedy, illustrating the power of madness, superstition, and

(a) The attempts that were made by the early Norman dynasty, and the Roman clergy, to overcome the Anglo-Saxon tongue, were numerous and well planned. They would have certainly succeeded in most nations, but the Anglo-Saxon tongue was defended by the Anglo-Saxon character.

(b) In other words, when the Guary miracle was first established, the laity could not read a line, but only the clergy. The priest was the author, had to be on the stage with his book, and played his actors like a human pianoforte. They sounded.

jealousy, the narrative based on holy writ, and containing delineations of character and fine dramatic taste, which would not disgrace the pen of the greatest dramatists."

The next is from Wales, condensed by me from a journal: "Mr. W. Jowett, of Swansea, informs the 'British Standard' that a dramatic performance has taken place in that town, presided over by the Independent minister." (I Puritani.)

The performance was "Joseph and his Brethren;" the characters in oriental costume; Joseph variegated, the rest in white calico; the language Welsh; the performers engaged from various "Independent" chapels. The receipts, after all expenses, went to build a temperance hall.

It is in our blood! it always was ever since the first dim dawn of the alphabet on these islands, and it will be till the crack of doom.

Money is to the arts what manure is to soil. The moment you open a market you get from nature to another giant, "culture." "Honos alit artes," said the ancients, and it is true. "Nummus alit artes" is ten times truer though.

Let us now leave the spontaneous drama, and take a hasty survey of the drama under culture of Gog and Magog, i. e., "Honos" and "Nummus."

CAP. XVII.

FEW subjects vary more under separate stages of examination than a comparison of the French and English stages during the 16th century. The works that supply information in the gross, such as the "Biographie Universelle," the historians, the writers of "Ana," leave a general impression that England had a great drama, and France had next to none. They scarcely notice a French dramatist but Etienne Jodelle, who wrote two tragedies in the Greek form, and one comedy, Robert Garnier, author of seven pieces between 1668 and 1680; Larivey, and Hardy, author of six hundred pieces, whereof scarce sixty survive. This fertile author, however, did not begin to write till about 1600.

Against this you have in England a galaxy of dramatic genius, including the names of Sackville and Norton, Chapman, Green, Lilly, Kyd, Chettle, Munday, Dekker, Marlowe, Shakspeare, Jonson, Massinger, Beaumont, Fletcher, Forde, Marston, and a dozen lesser stars.

This is the first stage.

Dive below those loose authorities to the bibliographers, who in ninety-nine cases out of a hundred are more to be trusted; and what do they show you? That England printed in that whole century about sixty-five plays proper (exclusive of "moralities" and mysteries), and that France printed nearly double that number. These pieces seem to be chiefly tragedies, tragi-comedies, and farces; the latter nearly always confined to two personages.

I give the following as specimens of the century, not with any pretension of exhausting the list:—

FARCES.

| Name of Piece. | Author. | Date. | Where published. |
|-----------------------------|---------|-------|------------------|
| Les Deux Savetiers . . . | .. | 1530 | |
| Poncette et Transy . . . | .. | 1595 | Lyon. |
| Martin Bâton | .. | .. | |
| La Farce des Quiolards . . | .. | .. | |
| Les Deux Marchands . . . | .. | .. | |
| Le Valet à tout faire . . . | .. | 1606 | Lyon. |

TRAGEDIES.

| | | | |
|--------------------------|----------------|------|-----------|
| Agamemnon | Toutain . . . | 1566 | Paris. |
| Philanire | Roillet . . . | 1563 | Paris. |
| Médée | La Peruse . . | 1570 | Poitiers. |
| Philoxène | Duverdier . . | 1567 | Lyon. |
| La Soltane | Bounin . . . | 1561 | Paris. |
| Lucille | Le Jars . . . | 1576 | Paris. |
| Adonis | Le Breton . . | 1579 | Paris. |
| Colligny | Chantelouve . | 1575 | |
| Les Tragédies de | Rob. Garnier . | 1585 | Paris. |

Among these there is one called "Bradamant," founded on the "Orlando Furioso."

| | | | |
|-------------------------------------------------------|-----------------|------|-----------|
| Atilée | De Beaubreuil . | 1582 | Limoges. |
| Eëther | P. Mathieu . . | 1585 | Lyon. |
| La Guisiade | P. Mathieu . . | 1589 | Lyon. |
| Le Mauvais Riche | .. | .. | Rouen. |
| Sophonisbe | Garel | .. | Bordeaux. |
| Le Triomphe de la Ligue . | .. | .. | |
| Le Rodomontade et la Mort de Roger, tragi-com. . . | Bauter | .. | Paris. |

Item, the following tragedies, for further particulars of which see "Brunet's Catalogue:" "Didon," "La Pucelle du Dom Remy," "Méléagre," "La Thébaïde," "Josias," "Le Guysien," "L'Assiégement de la Ville de Gais," "Jokebed," tragi-comedy, "Octavie," "Achab," "Priam," "La Belle Hester," "Acoubar," "Thébie," "Cléophon," "Maurice," "Les Gordians et Maximins," "Jeanne d'Arc," etc., etc.

Comedies not nearly so numerous: "Comédie du Pape malade," "Seigne Peyre et Seigne Joan," "Les Escoliers," "La Merveille," etc.

Add to these several collected works, which, however, probably include many of the above. The works du Sieur de Fief Melin, Cl. Billard, J. Behourt, Et. Jodelle, Chantelouve, Montchrétien, La Taille, P. de Larivey, etc.

The number and names of these plays seem to prove that France had a drama embracing a wide range of subjects, and that she had even then the courage to dramatize passages of her own history (yet Voltaire gives the English credit for being the first to do this), and printed many of them in provincial towns; whereas the English plays of the day were all printed in London. They compel you in candour to own that France had in this century a greater and more diffused drama than England.

This is the second stage of observation. You now go a little deeper, and you can hear of no great tragic actors in France before 1600. Nor do the titles of books of research imply that such actors existed.

Now sift the early English theatre, and you find many actors of the 16th century celebrated by their cotemporaries with intelligent and minutely descriptive criticism. Of these actors many retired with fortunes. Their wills, disposing of large and various property, were drawn in grand form, proved duly, and are to be seen in Doctors' Commons to this day, monuments of the grandeur of the dramatic operations in their time, and of the piety and charity, as well as worldly respectability, the artists of the scene can attain to, when their self-respect is not undermined by the unchristian prejudices, and their property by the brutal roguery, of their cotemporaries. See Richard Burbadge's will, cited in the "Prolegomena to Shakspeare," vol. iii., p. 185; Henning's will, ditto, p. 191, bequeathing large property in leases of

houses, shares in the Globe and Blackfriars Theatres, and plate and furniture, and presents to his fellow-actors and several relations, not forgetting the poor of his parish. Cundall's will, p. 200, dealing with still larger property in all its principal forms, and not forgetting the poor. Underwood's will, p. 216. Augustine Phillips's will, cited p. 470. Nicolas Tooley's will, by which the poor of the parishes of St. Leonards, Shoreditch, and St. Giles's, Cripplegate, benefit to this day, is cited, p. 483. Will. Sly's, p. 477. As for Edward Alleyn, a famous actor of the century, he built a grand theatre while he lived, at a cost fully equal to six thousand pounds of our present money (see Collier's "*Annals of the Stage*," vol. iii., p. 309), and, dying, bequeathed a noble institution to his country, Dulwich College. Several actors, predecessors and contemporaries of Shakspeare, are spoken of by eye-witnesses in terms of high, but discriminating eulogy, that carries conviction (vague laudation convinces me like the smoke of burning weeds). Tarleton, and his successor Kempe, in comedy, Burbadge (the original Richard the Third), and Allen in everything, are lauded in prose and verse. Yet it was matter of doubt whether the latter could equal Bently and Knell, his predecessors, in certain parts they had created. Those who, following the flimsy guesses of Dryden, Rowe, and Pope, fancy that Shakspeare was the root of the British stage, instead of the fruit, may be surprised to learn that not only had most of these actors secured a reputation some years before Shakspeare, but that famous actors had lived and retired or died before Shakspeare penned a line. Kempe had an established reputation in 1589; yet Tarleton was on the stage and famous ten years before him. Richard Burbadge, who had the ear of the town four years before Shakspeare, was the son of James Burbadge, a respectable actor, whom we find at the head of a company in 1574.

Here, then, is a great acting drama in England existing about 1570, but greatly advanced in 1576, and, as I shall show, in full career in 1580.

The next discovery we make by the help of Solomon, Malone, and other dealers in legal evidence, is a remarkable one, the true clue to many things on which chimerical conjecture has been wasted, viz., that at this period the printing-press and the theatre were not coadjutors in England, but

rivals, and, in fact, deadly enemies: that it was always the interest of a proprietor of a play to keep it out of print. There were two kinds of authors, as there were of actors, the paid authors, and the sharing authors of whom Shakespeare was one, and Jonson, on a smaller scale, another. It was not the sharing author's interest to print his play, and the paid author lost the right to print his. The sharing author's parental feeling and amour propre made him print eventually, but only when the theatre had worn the play quite out, because then his interest no longer curbed his P. F. and A. P. But the sharing actors, whose vanity sided with their interest, held the *bought plays* tight, and kept them out of print with the keenest jealousy. They kept them under lock and key; they hid them; *they destroyed them*. When all their precautions were outwitted, as happened now and then, by double MSS. or short-hand, they appealed to some great officer of state to restrain the printing, or they bought the printer off, or grinned and closed their stage-door to the author. They did this to Robert Greene.

"Lent unto Robert Shaw, the 18th March, 1599, to give unto the printer to stave the printing of 'Patient Grisell,' the sum of xxxxs."

Robert Shaw was the stage manager. — *Henslowe's Diary*, p. 167.

For the printing of bought plays restrained by the Lord Chamberlain, see a MS. in Lord Chamberlain's office, entitled "Cockpit Places appropriated," cited, "Prolegomena," vol. iii., p. 158.

Nor was this, I think, mere jealousy of the press; five playgoers out of six could not read: but printing enabled other theatres to play their pieces (a).

It was Malone who first announced that between 1570 and 1590 a host of pieces had been produced and played in London, and *most of them* perished. — *Prolegom.*, vol. iii., p. 40.

(a) Copyright existed in those days, and long before. So did stage right. But stage right and copyright never coexisted in England till 1832. A play obtained surreptitiously, and played elsewhere, might have been stopped, because this was theft in domicilio: nor could a rival printer with safety pirate a printed play. But any theatre could play a play once printed. This defect in literary property lost us the true text of Shakespeare, and also the text of two hundred good plays at least.

Having ascertained the fact, but not at that time the solution (he learned it before his death), he dismisses the lost plays with indifference, and, arguing backwards, very naturally infers they were of no great value. But, alas! we who have the clue know better.

The better the play, the less likely were the sharers to let it escape into print. No poet's work, *unless he was a sharer*, was safe. If Shakspeare had sold his plays out and out to a theatre, we should have lost many of them. We *have* lost one or two. What has become of "Love's Labour's Wonne"?

Philip Henslowe was a trader. He began with starch; from that to pawnbroking: but in the year 1584, finding the drama the best trade going, he got hold of a theatre, "The Rose," and, instead of leasing it to a company per annum, this illiterate but cunning trader made the sharers pay him a large portion of the gross receipts (not the profits) of each night's performance. By this means he received every year in the shape of interest a sum little short of his whole investment. The same move has been played in my day in Manchester. The Grindstone is immortal.

Of his triturations from 1584 to 1591 he has left no record. But from that year we possess his diary until 1609. Nearly every page of it contains some valuable and unexpected revelation. The very spelling, monstrous as it looks to the eye, reveals at times the pronunciation of our ancestors (a).

He puts down, *inter alia*, every night's performance; what it brought him in, and the prices the sharers paid through him to the poets who sold their pieces out and out. His entries show that this company did business with thirty living dramatists, besides playing some plays that had become public property apparently. I have profited by Mr. Collier's index attached, and count as many as two hundred and eighty plays played at Henslowe's theatre. Of these plays, on a rough calculation, I think under thirty are extant. Narrowing the calculation to one good man, I find that Chettle, one of Henslowe's poets, and of undoubted merit, produced

(a) "Troyeles and Creassedaye!" "Diary," p. 147. This exploit of orthography has been merely laughed at; but it shows that in speaking they made a diphthong of the oi, and pronounced the e in *Cressida* long, and the final a as our rustics do to this day.

thirty plays, and that five only exist. Some of the twenty-five that are lost carry very promising titles: "Hot Anger soon Cold," "T is no Deceit to Deceive the Deceiver" (this promises an ingenious intrigue), "Love parts Friendship" (room for nature under that head), "Jane Shore," "Too Good to be True," "Lady Jane Grey," "All that Glisters is not Gold," etc. Of Munday, who had been writing twenty years when Shakspeare began, yet outlived him seventeen years, seven plays only survive. Yet Meres, praising the cotemporary writers of comedy, places him high in a list that contained Shakspeare's name, and describes him thus: "Anthony Monday, our best plotter."

But Henslowe's entries prove him to be one of the mis-managing writers, that sold their plays, and Chettle to be always poor, and wanting advances, and therefore at the mercy of the sharers.

I dare not flatter the reader that less than a thousand original plays were produced and lost in sixteen theatres between 1570 and 1620, and among them many masterpieces. Mr. Collier must be of the same mind, for he sums up the loss of early plays in these words: "The very few plays that have come down to us, compared with the immense number irretrievably lost." — Note to Henslowe's "Diary."

The real truth is now visible, and to the best of my belief has never been so clearly explained as it ought, viz., that France, in the 16th century, published many five-act plays, but played very few of them; that England produced five-act plays with a fertility which has never been equalled in any age or nation, and played them with no scenery, but with more gorgeous and costly dresses than now, and with great beauty and propriety of action and delivery; but rarely printed them.

Now if one of our Cephalomants had lived in 1590, what would he have said? He would certainly have said, "The French are poetical by nature; witness the *trouvères* and minstrels, and their successors the romance writers in verse, and Villon, Marot, etc., etc.; but the drama, the acting drama, is not in them. We English are born dramatists. Look! there are eight theatres in this city so much smaller than Paris, and all of them full, and two good new plays out every week. What genius! what unrivalled fertility! France will never have such a drama as ours; never can."

Now drop moonshine, and inspect the markets! Begin with France! Hers was little better than an honour market. Hardie, who did not write till about 1600, is said by the "Biographie Universelle" to have been the first who received remuneration for his pieces. Probably he was not the first. No man with a name ever is the first in such matters; but doubtless nearly the first: and until the "Attila" and "Bérénice" of P. Corneille, no French author received a *just* equivalent from the theatre.

But in England it was a money market from about 1575, prices steadily increasing up to 1620. I am not talking of the precarious gifts of princes, such as the five hundred crowns to Etienne Jodelle, and the more numerous presents bestowed by the princes of the house of Tudor on English writers. Capricious gifts are a curse: they are given not to the best pen, but the oiliest tongue and the supplest backbone. I am talking of a healthy market, offering a *sure and proportionate* return to talent, and one with no known limits, to talent, prudence, and sober living. Wherever such a market is open to an art, nature gets a fair chance. In this just and healthy form, nummus is to honos a giant to a dwarf.

Nummus alit artes.

To ascertain when the market began, found the inquiry on three positions, the result of general observation of mankind. First, it would never occur to actors or to the spectator, as a matter of justice, that the author had a claim to be paid for work done out of sight; actors, carpenters, salvage men in skins, scaled and fiery dragons, working coram populo, would be remunerated as a right many centuries before the inventive artist. Work done out of sight is out of mind. Secondly, whenever authors, by the demand for many plays, became numerous, some of the number would be too poor to work gratis: then their hunger on the one hand, and the impossibility either of dispensing with their labour or stealing it, would extort justice. And, thirdly, the author actor, a character that by another law of nature is most frequent at the commencement of the art, would be a natural go-between to bring about a fair arrangement. For the writing actor, accustomed to be paid for work, would say, "Writing is hard

work when I do it; and why should I do any kind of work and not be paid for it?"

Apply this key to the following facts, resting on legal evidence. Up to 1570, public plays were played principally, if not always, in the yards of inns. In 1580 there were as many as six proper theatres standing. About 1575 we catch the theatres in the transition state. Lambarde's "Perambulation of Kent" speaks of the Bell Savage and the Theatre. Of these the first was an inn, and the second a theatre in Shoreditch, probably the first ever built, certainly one of the very first. But they were rising on all sides, for in 1576 a Puritan preached at Paul's Cross, and delivered himself as follows: "Looke but on the common playes in London, and see the multitude that flocketh to them: beholde the sumptuous theatre houses, a continuall monument of London's prodigallitie and folly"!

Blackfriars Theatre was built in 1576 by James Burbadge and his fellow-actors. "The Curtain" was erected either in that year or early in 1577, in which year Northbrooke, another Puritan, preached against it by name.

Paris Garden was full thirty years old at the above date: used first for bear-baiting; but as plays became the fashion, they were done here. This theatre or amphitheatre was a hexagon, and held a thousand spectators. — Collier's "Annals," 3. 282.

Of "the Rose" we know only that in 1591 it was old enough to need expensive repairs (Henslowe's "Diary"); but there is little doubt it was built about 1576.

Of the Whitefriars we know only that it was standing in 1580.

"Newington Butts Theatre;" date doubtful.

Here then you have at least six theatres that can be proved to have been in use, the newest of them eight years before Shakspeare wrote plays.

London companies of actors, and the dates of their formation: —

Lord Dudley had players, who performed a play before the Queen, 10th Jan., 1562-3.

The Queen had a company existing in 1569.

1572. Sir Robert Lane had a company, and Lord Clinton another.

1574. Earl of Leicester had a company, licensed under

the Privy Seal to play throughout the kingdom. Head of this company, James Burbadge.

1575. Earl of Warwick's company, apparently the second, for his players played before the Queen in 1565.

1575. The Lord Chamberlain's company, which Heminges and Shakspeare joined many years later.

1576. Earl of Sussex's company, and Earl of Worcester's company.

1578. Earl of Essex's company.

1579. Earl of Derby's company.

How many more who can tell? — Vide the "Stratford Entries."

When private speculators build theatres in such number as above, it is to obtain a good interest for their money; but this could only be done with plays, and the plays must be written. Here then is the demand for authors which enables authors to extort that remuneration for labour which is conceded spontaneously to an actor, or a scene painter, or the tailor that cuts Hamlet's cloak. The market therefore dates from a period not later than 1575, and probably not much earlier.

The immediate result of a public market on production was that rapid growth of dramas, first traced by Malone. In 1580, however, we get direct cotemporary evidence.

Stephen Gosson, writing against the theatre about 1579, says, "'The Palace of Pleasure' (an old collection of stories by Painter, principally of Italian origin), 'The Golden Asse,' 'The Æthiopian Historie,' 'Amadis of Fraunce,' 'The Round Table,' wanton comedies in Latin, French, Italian, and Spanish, have been *thoroughly ransack't* to furnish the play-houses in London."

I appeal to French critics whether this is not very much the state of matters in France, 1860, under the hot-house culture of thirty years.

Nor does the parallel end here. On the French stage collaboration has lately become common. In a hundred critiques, both French and English, you shall see it spoken of as a trait peculiarly *French*, and *of our day*; and, on one or other of these grounds, quizzed to the nine.

Sweet simplicity, on two sides of one channel!

At the end of this chapter I will try and make a list of English collaborateurs from 1580-1620. It will not contain

one-tenth of the acts of collaboration really done for our theatre in the 16th century, and in that part of the 17th century, when Hardy, a Frenchman with an English name, reigned alone in France, poète du roi (honos), and almost starved, if *not quite*.

To a soil as dramatic by nature as any in Europe, nummiculture could not long be applied without raising first men of talent, then men of genius: accordingly the names of Kyd (a), Lilly, Chapman, Munday, Green, Chettle, DeKker, etc., soon struggled out of the throng. And in 1587 the market elicited a great genius. Marloe, having just taken his M.A. degree at Cambridge, adopted the stage as a profession. Why not? It was the most open, and furnished an immediate competence. He began in King Cambyeses's vein, with "Tamerlane the Great," and the "The Massacre of Paris;" but this was not his genius,—it was his youth. On paper youth is sure to rant when it does not cant. Happy the youth

" Who his wild oats is a-sowing,
While his beard is a-growing,"

and begins, instead of ends, by ranting or canting: this is the order of healthy nature. He went on to "Edward the Second," still improving, to "The Jew of Malta," and "Faustus." When genius begins ill (a grand point gained), and rises so steadily, yet so rapidly, where will it end? The dagger stroke that slew Marloe in his twenty-ninth year, struck down a heaven-born and nummi-cultivated genius, that would have produced thirty masterpieces, and had a class of merit all to himself, between Shakspeare above him and Massinger below him. As it is, if you compare the seven pieces he wrote before he was twenty-eight with the seven the great Corneille wrote before he was thirty, you will have no reason to blush for your countryman.

Shakspeare gathered much from this writer, especially in versification. Marloe was the true originator, on a smaller scale, of that melodious blank verse with endless variety of rhythm and natural collocation of the words, which is so justly admired in Shakspeare.

Then came Shakspeare. This writer has been called a

(a) "The decline of the drama" was chanted, just as Shakspeare was dawning, by no less a man than Spenser.

lulus naturæ. He was just the opposite. He was the natural fruit of high culture on a fertile soil. He was a noble plant, watered by a rare concurrence of circumstances favourable to the growth of genius. Between 1580 and 1587, at which later date he is supposed to have come to London, more theatres had been built, and authors were in proportionate request. The sharing authors were making fortunes, and even the paid authors were ten times better off than *any other writers*. They received the overplus of the second performance, and a sum of money, from 6*l.* to 10*l.*, equal to 36*l.* and 60*l.* respectively of our money. Calculate the overplus at 4*l.* = 24*l.* These did not write so well as the sharers; it was not in nature they should; and the above was not bad pay for their crude and hasty, though talented, compositions. Shakspeare avoided that trap. He was paid from the first as the French dramatists are paid now, viz., by a share in the receipts of the house. And he wrote his best, because that system makes it a man's interest to write his best. So did Molière, and for the same reason. So did Plautus, and for the same reason. So does Victor Hugo, and for the same reason. So would you; so would I; so would every featherless biped that ever was hatched with brains.

One of the barriers to sound legislation, and the establishment of that healthy trade which fosters the godlike arts, is the fatal notion that genius is independent of such trifles as *steady* encouragement and *steady* discouragement; that system, good or bad, can neither rear genius nor blight it; whereas it can do either. The more narrowly facts are looked into, the more possible will appear the rise of another Shakspeare in these islands in twenty-five years or so of good legislation and consequent culture the exact opposite of the present, which is the exact reverse of common sense as well as honesty.

Let me repeat you the sham history of this man as told by old women, and the real one as I gather it from the legal evidence which has been collected, with infinite patience and sagacity, by Mr. Malone, Mr. Collier, Mr. Halliwell, true critics, to whom be honour.

THE SHAM HISTORY.

That he was an uneducated youth, the son of a butcher;

that he used to kill the calves, and make them a rhetorical speech first, "We should rejoice when tyrants fall," and so knocked them down; that on leaving Stratford he was a raw youth, and knew nothing of law, nor of the drama, which indeed he could not know, since he created it up in London; that on arriving thither he went first into an attorney's office, and there picked up an astounding number of legal terms and phrases to adorn his poetry with; that getting sick of this, or being dismissed, he held gentlemen's horses at the door of the theatre, and held them as they had never been held before; the natural result followed: no gentleman would let his horse be held by any body but by Mr. Rarey, I beg pardon, Mr. Shakspeare; which observing, he hired "little scrubby boys," and "turning Briareus, with digits vicarious," he held all the horses that came, and received the main profit. That the actors, struck with this effort of intelligence, conversed with him, and finding him *centum puer artium*, invited him in, and hired him as an actor; that on this he sat down and wrote off "Othello," or "Macbeth," as you and I write a letter, or as "Arabian trees drop medicinal gum," and created the true drama. That he cared only for the money these productions brought him in; was quite indifferent to reputation, and, when he had made a competence, retired to Stratford, and left his plays for anybody to do what they liked with; did not respect them enough to print them; and was a man apart, unlike all other men; an inspired idiot; in one word, a *lusus naturæ*.

THE TRUTH.

His mother was of an old family of high standing in Warwickshire, and an heiress. His father a landed proprietor and a burgess of the town, afterwards an alderman; and mayor in William's sixth year: he never was a butcher, nor any trade but a glover, and he ended a gentleman farmer (a).

(a) June 17, 1556. In the bailiff's court, Thomas Siche de Arcscotte queritur versus Johanem Shakyspere, de Stretferd, in com. Warwicensi, glover, in placito quod reddat ei octo libras. Cited from the Court-roll by Malone and Halliwell. The latter has discovered that J. Shakspeare won this action, with costs. Equally undeniable documentary proofs that his business after William's birth was agriculture;—Halliwell's "Life of Shakspeare," p. 21.

William was educated at a good grammar-school till fourteen, and after that educated himself, like many more educated men. The things dreamers fancy a man could only learn in London were to be learned in that day at Stratford-upon-Avon; and there he learned them.

The Tomb of the Capulets.

There was a charnel-house at Stratford-upon-Avon, a great dark vaulted place, containing the largest assemblage of human bones in this island. See the drawing made of it by Captain Saunders. Shakspeare, when a child, was not the child not to peer often into this cave of death, and draw back shuddering, and come again. To this impression on his youthful fancy we owe the famous description in "Romeo and Juliet."

The Law.

At Stratford-upon-Avon there was in his day a court of record, open to all comers, in which all causes underneath 30*l.* (=180*l.* now) could be tried, and were tried almost daily, as appears by the rolls of the court. Here the passions came out strong, and character in all its hues. Shakspeare, the ex-bailiff's son, and the alderman's son, and the thirstiest observer that ever lived, was not the youth not to go often and sit in that civic court, all eye, and ear, and mind. And, as most of these clients pleaded their own causes, he would never get tired of it. Barristers are works of art, and partake in some degree its monotony; but the client is a product of nature:

"Age cannot wither him, nor custome stale
His infinite variety."

Even had young Shakspeare not been so thirsty an observer, he would have been drawn into this court by personal curiosity and filial anxiety; for his own father is proved by the rolls to have played a part in it either as plaintiff or defendant *some dozen times* during his son's youth; and, once there, the observer would have returned to it again and again. He knew the road to it, for in 1604 he himself sued Philip Rogers in this very court for 1*l.* 15*s.* 10*d.* for malt sold and delivered by the said Will. Shakspeare to Philip Rogers at different times; and in 1609 he sued one Horneby in it for 1*l.* 11*s.*

In this repository of nature and law William Shakspeare sucked in nature and law together; and that is why you find nature and law together in his works from the very first to the very last.

We may safely lay this down, that, whatever Stratford grew, young Shakspeare reaped and garnered. The very names of his townspeople sunk into him, and many of them got dramatized, soon or late, owners included sometimes. The names of "*Bardolf*" and "*Fluellen*" occur frequently in the records of civic business at Stratford. On the 19th August, 1584, one Parsons sued William Fluellen in that very court. I dare say there was a peppery fight, and Shakspeare, ætat 20, looking on, drinking it in like a fish. "Peto," droll and artificial as the name sounds, was a magistrate, living within a few miles of Stratford at this date. Sly, Herne, Horne, Brome, Page, Ford, were Stratford names. — Halliwell, p. 27. That "Justice Shallow" was "Sir Thomas Lucy," of Charlccote, near Stratford, is now admitted on two or three distinct grounds of evidence.

The Drama.

"That at least must have been new to him till he went up to London, and there created it." This is founded on the same hasty notion I have encountered above, viz., that Shakspeare's Stratford was the same thing as our Stratford is; sans plays, sans charnel-house, sans court of law, sans everything.

Oh! immortal Herodotus, how much nobler, wiser, and greater was that of yours than the Athenian's brag direct.

Says you, "I shall describe in this book small as well as great cities; for I find that cities which once were great are small, and others which once were small are great."

In the year 1569 occurs the following entry in the municipal account-books, still preserved at Stratford:—

Item, payed to the Queene's pleyers 9*l*.

Now who was the mayor or bailiff that was so stage bitten as to make the town pay this magnificent sum to the actors, a sum without a parallel in the books?

John Shakspeare, father of William Shakspeare.

The drama was in the Shakspeare blood, you see. For this sum, however, the players must have given more per-

formances than one, and it is not to be supposed that this munificent bailiff, profusus alieni, had not a good place, where himself and all his family could see it. On which occasion Master William Shakspeare, in his sixth year, sat on some good woman's knee or other, with eyes like saucers and ears like a hare's. Can't you see him from here? And so the drama-loving bailiff inoculated his son, even as men enter a young terrier to blood.

There is no payment to players by the bailiffs of 1570, 71, or 72.

| | s. | d. |
|----------------------------------------------------------------------------------|----|----|
| 1573. Payd for the Earle of Lester's players | 5 | 8 |
| 1576. Geven my Lord of Warwicke's players | 17 | 0 |
| Paid the Earl of Worcester players . | 5 | 8 |
| 1577. Paid to my Lord Leyster's players | 15 | 0 |
| Paid to my Lord Woster's players . | 3 | 3 |
| 1579. Paid at the commaundement of Mr. Bailiffe to the Countys of Essex plears . | 14 | 6 |
| 1580. Paid to the Earle of Darbye's players at the commaundement of Mr. Bailiffe | 8 | 4 |
| 1581. Paid to the Earle of Worcester his players | 3 | 3 |
| Paid to the Lord Bartlett his players . | 3 | 2 |
| 1582. Paid to the Earle of Worcester's players | 5 | 0 |

This young gentleman had seen about twelve different companies at an age when most of us have not seen one play.

| | | |
|------------------------------------------------------------------------------------------------------------------------|---|---|
| 1583. Payd to Mr. Alderman, that he laid down to the Lord Bartlett his players, and to a preacher [il faut s'amuser] . | 5 | 0 |
| Payd the Lord Shandowe's players . | 3 | 3 |
| 1584. Given to my Lord of Oxford's pleers . | 3 | 3 |
| Given to the Earle of Worcester's pleers | 3 | 3 |
| Given to the Earle of Essex pleers . | 3 | 8 |
| 1586. Paid to Mr. Tiler for the pleyers . | 5 | 0 |

We now come to the year in some part of which Shakspeare probably left Stratford.

| | | |
|------------------------------------------|----|---|
| 1587. Gyven to the Queen's players . . . | 20 | 0 |
| Gyven to my Lo. Essex players . . . | 5 | 0 |

| | | |
|------------------------------------------|----|----|
| 1857. Gyven to th' Erle of Leicester his | s. | d. |
| players | 10 | 0 |
| Gyven to another company | 3 | 4 |
| Gyven to Lo. Stafforde's men | 3 | 4 |

He was not driven out of Stratford by misconduct, or he could not have returned to the town in 1592. He suffered no personal indignities from Justice Lucy (*a*), for all such matters are recorded at Stratford, and there is no trace of it. I notice, too, that when a man leaves a place where he has been degraded, his heart leaves it. Shakspeare's heart can be proved never to have left Stratford for a single day.

Let us combine legal evidence, and shut our ears to old wives' fables. Mr. Halliwell has traced, by a series of documents, the fortunes of John Shakspeare, and showed a gradual decline in his circumstances, until in March 27-29, 1587, he was put in prison. The cause of his decline was manifestly his large family. Here then, in the spring of 1587, is William Shakspeare put under a necessity of doing something *for himself and his wife*, or starving; to say nothing of a filial desire to aid his father, a sentiment he probably possessed, since he carried it out in due course.

Just at this nick of time (*b*) come the Queen's players to Stratford, and find their best patron and friend in sore trouble, perhaps in durance vile.

William Shakspeare was formally betrothed to Anne Hathaway in 1582, and married soon after. She had a daughter, Susanna, in May, 1583. In February, 1585, new style, she had twins, Hamnet and Judith. Doubtless she nursed her own children, and two years is a common

(*a*) There is a natural tendency in vulgar minds to assume that when a vivid sketch of some man's foibles leads to identification, the great writer had some personal motive. But this is because they measure him by themselves. Their own praise and censure represent not facts but motives. To the great artist character presents itself so vividly he can't keep his pen off it. In all human probability, and in the absence of legal evidence, Shakspeare merely saw old Lucy's foibles as they were, and *could n't help* painting them.

(*b*) Six companies were admitted into the town this year—the Queen's company the first in order. The year began in March; and in that month or April these players came, the London theatres being closed in Lent.

interval in that case. She was evidently a breeding woman, yet had no children after these twins. This inclines me to think the separation took place as early as 1587; and nobody places it earlier.

In November, 1589, there is legal evidence (a) that Shakspeare was a sharer in the Black Fryers Playhouse, with the two Burbadges and thirteen others, *i. e.*, not a joint proprietor of the building, but an author actor, paid by a share in the nightly receipts.

Dowdall states, on fair authority, that Shakspeare entered this theatre as a servitor. This statement it is which, misunderstood by ignorant persons, has led to that nonsense about his holding horses, etc. "A servitor" (b) meant only one of the non-sharing actors, paid by a salary. There were such in every company. There is no reason to reject the statement thus explained. Every novice would begin in the lower position. It was the *interest of the sharers* he should.

Shakspeare, November, 1589, is low down among the sharers; but there are *four below him*: he had, therefore, been a sharer some months. The usual engagement of a salaried actor was two years. Six months a sharer and two years a salaried actor would just take him back to Lent, 1587.

Has Shakspeare ever been traced into any company but Burbadge's?

No.

What countryman was Burbadge?

Of Stratford-upon-Avon. — *Malone in Prolegom.*

(a) Certificate addressed to the Privy Council, and preserved in the archives of the city of London: — These are to certifie — that her Majestie's poor players, James Burbadge, Richard Burbadge, John Laneham, Thomas Green, Robert Wilson, John Taylor, Anth. Wadson, Thomas Pope, George Peele, Augustine Phillips, Nicolas Tooley, William Shakspeare, William Kemp, etc., etc., being all sharers in the Blacke Fryers Playhouse, have never given cause of displeasure," etc.

(b) "Hiered as a covenant servant Willyam Kendall — to give him for his sayd servis everi week of his playing in London 10s. (equal to 2l. 10s. of our money), and in the countrie 5s., for the which he cove-naunteth to be redye at all houres to play in the house of the said Philip, and in no other." — Henslowe's "Diary."

What company was it which came to Stratford in 1537, and found the Shakspeare family in that distress, which was so often broken up families?

Burbadge's: the Queen's company.

Putting all this together, and in the absence of all evidence to the contrary, I have little doubt that he walked out of his native town with the Queen's players (a) on their provincial trip in the spring of 1587.

To such a result the road had been paved for years.

He was inoculated with the drama from infancy, and the taste constantly fed by histrionic visitors.

He was too genial and inquisitive not to have conversed with many of the actors that visited the town, and they were then what they are now, on the stage they gaggled, and off it they bragged.

He left Stratford to make his fortune by an acknowledged road to fortune. I can't find a trace of vagabondage or bohemianism in the transaction, nor any tint of it in the man's character. He went, but left his heart at home; came home whenever he could; and in the small space of nine years, *i. e.*, as soon as he could, returned home so far as to make it his head quarters. As for London, that was his milch cow, nothing more.

Shakspeare's pen it was that made him a sharer so early. He was too wide awake to sell his plays for money down.

Now mark the result of the present French system of remuneration working in England, 1589.

In 1592 Greene (an established dramatist) was already jealous of him, and warned others a formidable rival was in the field.

In 1593 the stage had enabled him to print his poems, mainly written down at Stratford. He gave the printing of them to Field, a London printer, that came from Stratford-upon-Avon.

In 1594 the sharing system enabled this author to bear his part in building the Globe Theatre.

In the beginning of 1597 this author came down to Stratford, and there purchased of John Underhill Newe Place, one of the largest houses in the town, and settled in it with his wife and family. Price 60*l.* = 300*l.* Newe Place consisted of the dwelling-house, two barns, and two gardens.

(a) Companies are often short of hands out in the country.

He seems to have thrown his *egis* round his father, *who from this date gets into no more troubles*, and to have thrown capital into the old man's farm; for though at this time he had no farm of his own, he is returned in a municipal record as holding ten quarters of wheat.

This same year this author sold a load of stone to the corporation, price 10*d*.

Perhaps his inventive genius had opened a quarry: as likely as not.

In the same year Richard Quiny, his countryman, living in London, writes to him for a loan of 30*L*., "upon Mr. Bushell's and my security, or Mr. Mytens with me." The letter is worded as to a capitalist.

He wrote none the worse for being paid upon a just system; on the contrary, just as he rose in wealth, he rose in industry and genius. About a year after the production of "*Othello*," he bought a hundred and seven acres of arable land in Old Stratford Parish from William and John Combe. Item, a cottage from one Gettey. Item, a considerable property from Underhill — one messuage, two gardens, two orchards. The land he is supposed to have farmed.

In 1604, he sued Phillip Rogers for 1*l*. 15*s*. 10*d*. on account of malt sold and delivered.

In 1605 he gave 440*L*. = 1,760*L*., for a lease of the tithes of Stratford and other places.

In 1608 he is said to have given up acting altogether; but he retained shares in the Globe and Blackfriars by writing plays for Burbadge's company, and no other.

His popularity and influence having defeated an attempt on the part of the Puritans to pull down the Blackfriars Theatre, they were seized with a sudden fit of honesty, and offered to buy the sharers out, since they could not rob them. On this a valuation was submitted to them. Shakspeare's item was as follows: —

W. Shakspeare, for the wardrobe and properties, 500*L*.; and for his four shares, the same as his fellows, Burbadge and Fletcher, viz., 933*L*. 6*s*. 8*d*.

The poet means *at the same rate* as his fellows. None but Burbadge and Shakspeare had as many as four shares.

The shares were calculated thus: ascertained yearly value of each, 33*L*. 6*s*. 8*d*., one year with another, of which they claimed seven years' purchase.

Money carried 10 per cent ; so that Shakspeare's income from the shares and properties was about 180*l.* = 700*l.*, money having declined in value since 1587. The Globe was a larger house ; so we may double this to arrive at this author's professional income. No author's income in the 17th century comes near it, except Molière's. Nummus alit artes.

In 1593 Chettle confessed he was a man of integrity.

In 1609 Shakspeare sold something or other to Addenbrooke, taking the precaution to require a bondsman. Addenbrooke did not pay. Shakspeare took out a writ. The writ was returned, endorsed to the effect that defendant was not to be found. On this Shakspeare sued the bondsman Horneby in the court at Stratford. This was a man : he would neither swindle nor be swindled. There was no hole in any part of his intelligence. It is false that he despised reputation. Heywood has recorded that he was *much offended* with Haggart for printing another man's play as his. He printed all his poems, and such of his plays as he could print with propriety. But for others he was drawing an annual income from the theatre, on the condition of not printing them. When he dropped acting they were his main commercial claim to his shares and annual receipts from the Globe and Blackfryars. To print them he must not only have sacrificed his main source of income, but broken faith and wounded to the heart the tried friends and brother artists of his youth and his whole life. What ! take "Richard the Third" and "Hamlet" from Dick Burbadge, and let any fool mouth them ? And all for what ? To add a little paper notoriety to a great reputation. For in his day the stage gave a dramatist a great name, and the press gave him a small one ; the few readers of that day fit to judge Shakspeare in print read few plays. Had he lived to the term of man, and had his friends and fellows left the stage, he would have printed them. But he died *suddenly*, and in his prime. [Buzzards never take this into account at all.]

Meantime the natural dishonesty of his nation, where authors are concerned, was not checked by sufficient laws. Therefore he could not print without wronging himself and worthy men he really loved — men that were one flesh with him in those great characters he had created for them, and they had embodied for him. He chose then between evils,

as you will have to do more than once before you die ; and he chose like the wise, affectionate, just, and sober-minded man he was.

The foregoing facts must convince any candid person that this writer was not a "*lusus naturæ*," but a natural product of the Anglo-Saxon dramatic genius, under example, stimulus, and nummiculture. I will only add that, so far from bounding on to the stage an unique writer, he passed through his noviciate like other men, and from his infancy to his last hour profited by his cotemporaries and predecessors. He began his career as a dramatist by altering historical plays (a) of the day that had somehow become public property, and by collaborating with other authors. Then dramatized Greene's story, "*Dorastus and Faunia*." Then he wrote original comedies ; and at last he rose to that in which he has never been approached, the philosophical melodrama. Even here he did not always disdain to deal with other men's thoughts. He used the old play of "*Hamlet* ;" but of course absorbed and extinguished it as the sun drinks the morning star.

If this Anglo-Saxon had not been nummicultivated by the theatre, what man with half an eye for character does not see he would have taken his vast powers into some other business, that would have enabled him to buy land at Stratford-upon-Avon ?

A steady increase in the price of bought plays was going on between 1590 and 1620. In 1613 Daborne, a writer of no note, stands out against screw Henslowe, and states that he had been offered 25*l.* for a play, which, with the overplus of the second day, would make a considerable sum. — The "*Alleyne Papers*," p. 67, cited by Mr. Collier.

Nummiculture raised Philip Massinger in 1604. He left the university before taking his degree, to write for the stage. About the same time Beaumont, the son of a judge of the

(a) The first part of "*Henry the Sixth*" is an old play, merely retouched by Shakspeare. For others see Malone's dissertation on this head. He is said to have collaborated with Laurence Fletcher in "*The Two Noble Kinsmen*," and with an unknown author in "*Arden of Feversham*." "*King Lear*," "*Troilus and Cressida*," "*Titus Andronicus*" — of all these plays we know thus much, that they existed under those names long before Shakspeare had anything to do with them. "*Hamlet*" ditto.

Court of Common Pleas, and Fletcher, son of the Bishop of London, took to writing for the stage, and, being duly nummicultured, resigned their other professions for it, and produced say forty pieces in nine years; fifty-three go by their names; but Fletcher wrote some of these after B.'s death. Shirley, an university man and a scholar, kept a school at St. Albans; but presently was drawn into the best market. Talent follows the market. He cut the trade in birch, came to London, and wrote for the stage. "By this," says his biographer, "he gained not only a livelihood, but also great respect and encouragement from persons of quality." "Honos" seldom fails to follow "nummus," even in the pocket of genius: contempt, open or secret, waits upon genius in want of it. When Shirley was in full career the theatres were closed by the Puritans. What did Shirley? Set up a school. What reversed his sentiments? 'The reversal of the markets.

After the year 1630 I find new dramatists no longer rising. Nature exhausted, eh? Oh dear, no: the market contracted; the theatres attacked on paper, and with physical violence, by the puritanical party, and defended by the king and his party. In this, the final result of the more terrible civil war that was brewing was prefigured; the Puritans beat the king. By the year 1636 the companies had dwindled to four. The next game was to starve out even these: this was effected by closing the theatres for a year or so at a time, on one disingenuous pretence or another. It does not take a year, nor a month, to starve a man; so this drove both actors and writers into other and less precarious modes of life, from which many of them never returned. The theatres were closed thus in 1636 for ten months, and again in 1642 for eighteen months. So that many years before the coup de grâce came in 1647, which closed them for fourteen years, the market had been robbed of every feature that inspires confidence and tempts genius to embark labour in it. On this rising genius turned its back on the stage.

Withered artificially in England, it was just rising in France, under culture. It did not begin there with Corneille, any more than here with Shakspeare. No art ever originates and culminates in the same hand. The notion that it does is very seducing to dreamers, but hurtful to

sound legislation : it has often been put forward and christened Homer, Shakspeare, Corneille, Raphael, according to the art under Cant ; but fact levels all these superhuman pretensions. The moment fact comes to light, it encourages just legislation by showing that genius comes, not like Venus, springing out of mere foam, but like the Venus of Apelles, by combination ; or, to speak soberly, by degrees and culture.

Hardy wrote about 1600 - 30.

Scuderi, born 1607 ; wrote 1631 - 44. He, not Corneille, introduced the unity of time.

Mairet, born 1604 ; produced "Sylvie" in 1626, and in 1629 "Sophonisba," in which, for the first time, all the unities were preserved.

Tristan, born 1601, has described the rock he split himself on,

"Faisait le chien couchant auprès d'un grand seigneur."

Produced "Mariamne," 1637.

Rotrou, though born three years after P. Corneille, preceded him as a writer by one year, and as a successful writer by eight years : he led off with two adaptations from Lope de Vega. This was a great thing for the French stage, as it introduced several personages speaking in the same scene.

P. Corneille, born 1606, forty-two years after Shakspeare, wrote in 1629 his first play, "Melité," a weak comedy. For seven years he wrote a weak comedy every year. They were played with little success ; so that up to 1636 he was really inferior in public running to more than one cotemporary, and, unlike Scuderi, Mairet, Rotrou, added nothing to the *form* of the drama. But in his thirtieth year, either in imitation of his friend Rotrou, or, as the story goes, advised by an old gentleman down in the country, he had recourse to a Spanish model, and built the immortal "Cid" on the play of that name by Guillen de Castro, whom Cervantes praises for "his harmony and delightful sweetness." The rest you know.

From 1625 to nearly 1680 France had a great and still rising drama, and poured forth some of the very noblest and purest productions of the human mind.

From 1570 to 1625 England had a great and still rising

drama, and a more abundant and far more national one; for the French drama (*a*), up to Molière's later comedies, was a demi-Greek, demi-Spanish drama, in form and theme.

From 1630 to 1660 the drama was extinguished by brute force in England, and all the fine arts with it. Was this a shift in the wind of nature? Oh dear, no.

In England, Puritans up, fine arts down. Theatres closed, a civil war of the diabolical, *i. e.*, politico-theological kind.

In France, *Richelieu*.

The drama rose in France under that great man from three causes:

First, He made the country prosperous; and the fine arts are luxuries, not necessities, and blow in the sun of national prosperity.

Secondly, Being a stage-struck cardinal, he gave the tone to the court and the public, and so founded indirectly and by degrees a healthy market.

Thirdly, He gave money out of his own purse to dramatists, which founded a petty, unhealthy market. His direct patronage sustained Mairet, and raised Boisrobert, Colletet, L'Etoile, and a cabal against the author of the "*Cid*." But his genius gave the people religious peace and prosperity, and his taste directed the public—a fallible, but an incorruptible judge of art. Boisrobert can't fawn himself up over Corneille's head with them.

Indirectly, then, Richelieu founded the market on two pillars, prosperity and fashion, and was the cause that Corneille, in due course, made the theatre pay him 2,000 francs for two tragedies.

Nummiculture once started, produced its usual degrading effect on art. Enter Thomas Corneille, Quinault, Molière, Racine.

(*a*) It was a noble adaptation, but not a pure product of the soil like ours.

"Ralph Roister Doister," A. D. 1550; "Gammer Gurton's Needle," 1566; "Gorboduc," 1562; Marlowe's "Edward II.," and the historical plays of the 16th century, are purely English in form as well as substance. "Arden of Feversham," "A Woman Killed with Kindness," and many others of the time, are "*des drames en habits noirs*" tragedies of the day, such as France produces so plentifully now that her drama is a genuine product. I call Cervantes a great dramatist, because so early as the middle of the 16th century he produced plays of powerful interest on cotemporary topics.

Who of these wrote *uniformly* well?

Molière.

Who was paid the best?

Molière.

Who was paid in exact proportion to the merit and success of each work, as Scribe is paid now? and Shakspeare had been?

Molière. Fantastical coincidence!

Meantime we poor English were cutting one another's throats over the trampled arts.

Weak thinkers imagine that you can close the theatres virtually for thirty years, actually and physically for fourteen years, and at the end of that period open them, and go on again, as if nothing had happened.

No more than the world can be deluged for a fortnight, and drowned all but one family, and then go on again, just as if nothing had happened. It is an ascertained fact that, except Davenant, no single dramatist, who had written before the Civil War in England, wrote a line after it; and no actor of repute that played before the troubles spoke a line on the stage after them. They had been driven into other lines. Clever men will go a *long way out of their road* sooner than starve.

The supply of writers ceased in 1680, because the author is always the last to be paid and the first to be swindled. Adversity, therefore, extinguished him first, and left the inferior artist lingering. Next went the actors, then the fiddlers, last the candle-snuffers. The great Othello of the day retired into the jewellers' line, and never returned. Hamlet took to toad-eating, and never returned to art. Falstaff set up a public-house, "The Three Pigeons." Many of them were knocked on the head, fighting for the crown against the petty tyrants who had robbed them of their living. Most of these gallant Richards and Henrys fell about as wept and sung as carrion crows; but the fate of one is recorded. Dick Robinson yielded himself prisoner to Harrison, the regicide. "At pious Æneas" levelled his pistol at the unresisting player, and deliberately blew his brains out, remarking, "Cursed be he *who doeth the work of the Lord negligently.*" *Piety versus Player.*

When the theatres reopened in 1660, there were neither

writers nor actors on the soil. Sole link between dead genius and living dunces was Will. Davenant, who, they say down at Oxford, was Shakspeare's son by a fair citizen of that town. Then it was that plagiarism from the French commenced, nor was it in human nature that it should not. On one side of a narrow channel was a great kingdom, that had for forty years been steadily accumulating dramatic treasures, and improving the dramatic art: on the other, a nation in which the art and its profession had both been uprooted at a prior epoch of civilization. England in 1660 woke up from her drunken fit — the dramatic England of 1630 only, with all the actors and all the writers gone.

Dramatic France in 1660 was therefore thirty years ahead of her in progress, and fifty years ahead in material. Now invention is the child of necessity, and never exists without it on a great scale. Accordingly at this epoch our plagiarism begins. You find scenery introduced from France, and actresses invented in imitation of France, and some few French plays adapted to our stage — wonderfully few, considering. From so complete an extinction as our drama underwent 1640–60, I should give any other country but England a hundred years to recover; but England, being by nature a singularly dramatic nation, I give her a quarter of a century to breed actors and writers on a *tabula rasa*, as now we grow turnips on a deal table. This takes us to 1675; but here I find another civil war, with Satan's favourite sultana, theology, at the bottom of it: so I shrug my shoulders, and go on to 1689, when the kingdom was settled. From this date I take a human generation, thirty years, 1689–1719. What do I find? I find more dramatists of lasting merit in England than in the land of Corneille, Molière, Racine — considerably more, measured against population. Dryden, Lee, Otway, Mrs. Behn, Mrs. Centlivre, Vanbrugh, Congreve, Farquhar, Cibber, Addison, Rowe, Southerne, Young, Steele. This list cannot be matched in cotemporary France — La Motte, Le Sage, Crébillon, Destouches, Marivaux, T. Corneille.

Was the nature of the two countries changed again? Nature be hanged! The English theatre was revived by honest criticism and nummiculture. The French theatre was lowered by bad statesmanship. Nature is a mere flea-bite in these matters compared with the other forces.

England.

Sober citizens, still infected by Puritanism, long held aloof from the theatres. This degraded the spectators from a public to a clique. The stage, a mere chameleon, instantly caught the tone of this abnormal audience, and became wonderfully indecent and immoral. Then Jeremy Collier, an honest and learned Puritan, wrote the one good book against the stage human nature has produced. Unlike the lying ranters, who write against plays now, without having the honesty or veracity to read them first and know what they are describing, he read every play of his day with grim relish, and pointed out vices that really existed. What was the consequence? He gained a hearing that his false apes can't gain: he could not put down the stage, for that will never be done in England by mortal man; but he purged it, and was the best friend (except me) it ever had. The result is recorded in Cibber's "Apology:" "This had a wholesome effect on the stage: indecencies no longer passed for wit, and by degrees the fair sex came again to fill the boxes." There is no limit to the power of a genuine book. It roused public opinion and revived an obsolete law, under which several performers, Betterton and Mrs. Bracegirdle among the rest, *were fined for uttering profane language on the stage*. This inspired confidence, and the true public began to flow into the theatre, thanks to Jeremy Collier.

From 1660 up to 1694 authors were paid in the theatre by the overplus of the third day. It seems to have averaged 100*l*. But before the close of the century Southerne demanded the overplus of the sixth night as well as the third, and obtained it.

In 1705, a piece of Farquhar's having run the unparalleled number of fifty nights, he obtained a third, viz., the ninth. This was a great stimulus to authors to write their best, for at this date weak pieces generally stopped short of the ninth night. Here then was a remuneration, not only high but just, i. e., the better the piece the higher the price.

The following actual figures are all I have been able to ascertain.

1588, when the author had only the third night's overplus, we learn from Downes, the prompter, that "The Squire of

Alsatia" brought the author 130*l.*, being the highest overplus recollected at single (*a*) prices.

In 1694, under the two-night system, one of Southerne's nights brought him 140*l.* The play was "The Fatal Marriage," Mrs. Behn's story, dramatized. Besides this market the dramatist was, since the war, allowed to sell his copyright to the booksellers.

The following are a few of the *copyright* transactions. These are to be added to the stage right : —

| | £ | s. | d. | |
|---------------------------------------------|-----|----|----|---------------|
| Southerne's "Fatal Marriage" | 36 | 0 | 0 | A.D. 1694. |
| Addison's "Drummer" . . . | 50 | 0 | 0 | Tonson, 1715. |
| Young's "Revenge" . . . | 50 | 0 | 0 | Tonson. |
| Gay's "Three Hours after Marriage" . . . | 43 | 2 | 6 | Lintot, 1713. |
| Young's "Busiris" . . . | 84 | 0 | 0 | Lintot. |
| Rowe's "Jane Shore" . . . | 50 | 15 | 0 | Lintot. |
| Rowe's "Jane Gray" . . . | 75 | 5 | 0 | Lintot. |
| Southerne's "Spartan Dame" | 120 | 0 | 0 | A.D. 1719. |
| Cibber's "Non Juror" . . . | 105 | 0 | 0 | Lintot. |
| Smyth's "Rival Modes" . . . | 105 | 0 | 0 | Lintot, 1726. |

Malone, who is very careful, says that the usual price of a copyright, from 1707 up to 1726, was 50*l.*, when it was raised to 105*l.*, and stood at that for some years.

Now popular and useful books remunerated their authors even then ; but fiction was vilely paid and scarcely treated as a fine art, except on the stage. Pope, indeed, received 3,203*l.* for his translation of the "Iliad ;" but that was supposed to be a learned work : moreover it was published by *subscription*, and therefore furnishes no real clue. Zach. Gray received 1,500*l.* for a commentary on "Hudibras," published by subscription.

The prices paid Pope for original works tell a different story. "Rape of the Lock," first edition, 7*l.* ; "Windsor Forest," 32*l.* ; "Temple of Fame," 32*l.* ; additions to the "Rape of the Lock," 15*l.* ; "Essay on Criticism" (an edition), 15*l.*, better worth 120*l.* than the "Spartan Dame." These purchases are by Lintot. Vide his payments for

(a) They sometimes raised the prices for a new play, by which the author profited.

plays, supra (D'Israeli's "Miscellanies," p. 203). Yet the play had two markets, and the story in prose or verse but one.

This was the market that set learned divines like Young, and a man so high in the state as Addison, and architects like Vanbrugh, and scholars and men of genius, and women of genius, writing for the stage. Talent follows the market.

Mrs. Behn and Mrs. Centlivre were both Saxon women; yet it was in their nature to write plays. The latter married a gentleman of that nation which is now so dramatic by nature: he had no occupation; and the Saxon kept both him and herself in perfect comfort and prosperity by writing for the theatre. (See the preface to Mrs. Centlivre's works, written by an acquaintance.)

And this is how we got ahead of France again with a smaller population and fewer theatres. We had a coadjutor in Louis XIV. That king, I think, must have been wise too young. Nature exacts her peck of folly. We cannot repeal her law: we can but invert it, and sow our wild oats at sixty, like Solomon. Louis XIV. grew in folly as he grew in years. He got a set of black spaniels about him, fawning on their master and snapping at all creation.

Thus inspired, he *picked* quarrels at home and abroad, where it was not his interest to *pick* quarrels. Take one instance: the Protestants of France were not, like the English Puritans, republicans under a thin varnish of religion: they were a genuine religious sect, attached to law and order, and to a book which bade them "Fear God, honour the king." Yet after persecuting and tormenting them with cruelties that belonged to heathen creeds and uncivilized times, he succeeded in driving out of France about five hundred thousand of her ablest, most moral, and intelligent sons. They carried out all the money and movables they could, and, richer treasure far, they took away their skilled labour, their morality, and industry.

But a monarch can't skim so much cream as this off his nation and fling it abroad without impoverishing the platter. To whatever land these impious creatures went, on that land they descended, a present from France, but a blessing from heaven. They were the jewels of a noble nation, these impious wretches, they and their abominable Bibles. We and the U. S. got most of them. All the better for the U. S.

and us. Of all the capital crosses (a) in their breed and ours this was, perhaps, the best. But what we got France lost, and soon felt the loss.

I happen to have access to a MS., written by one of these "impies," and this is perhaps your only chance of seeing it:—

"The 5th October, 1685. I, Garric, arrived at London, having come from Bordeaux the 31st August, running away from the persecution of our holy religion. I passed through Xaintonge, Poitou, and Brittany. I embarked at St. Malo for Guernsey, leaving my wife and a little boy, four months old, called Peter.

"The 5th December, English style, God gave me my wife at London. She embarked from Bordeaux in a bark of 14 ton, being hid in a hole, and was a month on the sea, with strong tempests, and at great peril of being taken by our persecutors, who were very inveterate. Pray God convert them! [L'impie!]

"The 22nd May, 1687. Little Peter arrived at London, by the grace of God, in the ship of John White, with a servant, Mary Mougner, and I paid for their passage 22 guineas."

The other entries relate in order, with touching simplicity, the birth in London of his little children, ending with a prayer that each may live a long and happy life to the glory of God; and too often, alas! the next entry records the poor little thing's death and interment in English soil.

"The 4th July, 1693, God took to himself the little Stephen. Buried at night at Wandsworth, in the new churchyard." [This is the village Voltaire spent two years in, studying Shakspeare, Newton, Locke, Hobbes, Pope, Parnell, English. Here he wrote the first act of "Brutus," in English prose.]

"God hath afflicted me, and taken from me my poor wife the 2nd December, 1694, and gave her to me in April, 1682. She is buried in Bartholomew Lane, behind the Royal Exchange."

And thus the poor exile records each death, and how he laid his brother and sister beside "his poor wife" in English soil, almost in the words of Job, "The Lord gave, and the Lord hath taken away; blessed be the name of the Lord." L'impie!

Little Peter became a soldier in the service of the English crown. He married an English lady, a Miss Clough, and their son was David Garrick, the greatest actor that ever lived, being

(a) It would be well worth while to try and trace these French exiles into the service of the English crown and people. From certain indications I suspect some of the best men in our church and state at this moment are presents from Louis XIV. Any of my readers who know anything on this head, or who are so descended, will much oblige me by sending me particulars.

more tragical than any other known tragedian, and far more comical than the comedians. The English Roscius was a pure cross, half French and half English, and a present from Louis XIV.

By being wiser than Richelieu, and so on, this crowned monk reduced France to a desperate state of poverty and misery (a). See the remarks of travellers on the poverty-stricken appearance of the country, cited by Mr. Buckle, pp. 653, 654.

And that is why fewer dramatists of genius were bred in France than in England at this period. And I dwell with the more force on this fact, because this king in his own person is called a great patron of art; and indeed he was very liberal to writers, and did all an individual can to counteract the general poverty and decline of nummiculture his bad statesmanship caused. But pray take notice that he failed. And why? Because it is not to be done except through the public. A king can do wonders by just legislation, and by setting the fashion; but direct patronage only raises writers with a talent for scribbling and a genius for adulation. Nothing but a public market raises many men with a genius for writing, and capable of the dogged labour that genius must apply to produce lasting works of art.

From that day, when a healthy market in England defeated Louis and his private purse, to about the year 1832, the French and English stages present no more of those very marked contrasts, three of which I have dwelt on. *Cæteris paribus*, the nation with the larger population produces more dramatists, as it does more carpenters, painters, blacksmiths, than a smaller nation.

I find France, from 1730 to 1815, superior on the whole to England in production, but not superior measured against population. Of course there are fluctuations. From 1730-60, with Piron, Voltaire, Crébillon, Marivaux, etc., against Cibber, Gay, Hoadley, Lillo, France has clearly the advantage, population taken into the account. But 1760-90, England has rather the pull, with Sheridan, the two Cole-

(a) The notion that John Law did her any serious harm is all a delusion. She was virtually a bankrupt in 1729. He inflated her with delusive prosperity, and left her no poorer in resources than he had found her, and much richer in mercantile ideas, which afterwards bore a healthy fruit.

mans, Foote, Mrs. Inchbald, Goldsmith, Holcroft, Garrick, Macklin, and the minors, population taken into account.

I therefore postpone comparison till 1830 - 60. With respect to plagiarism, as our ancestors conducted it, a sober account has never been printed. Being a matter of figures, arithmetic has been carefully excluded, and cant industriously substituted.

From the year 1660, when our theatre reopened without actors or authors, we begin to adapt and imitate French plays : Wycherly, Shadwell, D'Urfey, Dryden, all took French ideas, and now and then a whole piece. I have collected with a labour that would break most critics' backs every known adaptation or imitation done between the above date and the peace of 1815. They amount to two hundred and fifty-eight, and include several plays universally supposed to be original. Several, however, are French novels dramatized, and several others are duplicates and triplicates from the same French play. The number seems large, but spread over one hundred and fifty years it is not large, and we know by other evidence it was not large, viz., that it was not large enough to lower the price of invention. The vague statements of cotemporaries cannot outwash arithmetic and fact. As to the current statement that our ancestors translated but we adapt, it is a falsehood. Our ancestors, I find, when they plagiarized, generally imitated with great freedom and independence, rarely building on a single French play, or without adding original scenes and characters. Henry Fielding I find about the most servile. He follows Molière pretty close, merely extracting the wit, the point, the grace, and entirely missing, probably not even seeing, the idiomatic variety of the master's dialogue, and flinging in certain ordure of profaneness and obscenity to fill these little gaps. But most of the old adaptations are free: many are really "fair imitations." The common practice was to combine two or three French plays, and connect them by original scenes. Mere discolouration was the exception: now it is the rule.

Unfortunately I have not the same means of reducing French plagiarism to figures; but this I find, that, so long as the English language was universally unknown, no Frenchman plagiarized from us at all; but that purely accidental barrier to plagiarism removed, and our unsuspected treasures

of philosophy and poetry made known (about 1720), the French devoured us with all the zest of novelty, and plagiarized from us in every form. They took Farquhar's pieces, Congreve's, Lillo's, Moore's, Sheridan's. They dramatized Richardson and other novelists. If ever one nation was the pupil of another nation, France, with "Le roi Voltaire" at its head, was England's pupil in science, politics, and fiction from 1720 to 1789. But now there is no dramatic exchange, and England *steals* from France in one year as many plays as she used to *take* from her in a century.

Nummiculture sustained the theatre under blasting oppression and idiotic tyranny. From the year 1737 to 1832 the English theatre was ground down, and invention narrowed, by one of those gigantic forces bad legislation has at its service, monopoly.

Arbitrary, vexatious, unconstitutional, unreasonable monopoly. This blight descended at first in a curious form. The minister of the day, having been lashed by a dramatist, H. Fielding, contrived to get the three estates of the realm to dethrone their sovereign and oppress the subject by one stroke of legislation. They took away from the Crown the power of licensing any more theatres, and gave their imperial power to a tool of the minister, the lord chamberlain of the day (1737), together with the novel power of restraining the performance of any play this imperial subject should disapprove. It is a consoling circumstance, and shows the advance of virtue, that this power, intended to be political tyranny, is now used merely to guard good morals. Abused as this power was for a whole century, the theatre would have perished in any other nation but England under the double oppression; for nota bene, that the tyranny of kings, emperors, czars, is tyranny in its mildest known form. God protect us all from the tyranny of a subject! It is a thousand times more penetrating, grinding, withering, and galling than Cæsar's.

Asperius nihil est humili quum surgit in altum.

Would it be believed that for half a century this jack in office, whom they elected emperor of authors, used at first to steal the pieces he refused to license. He stole one of the best short comedies we possess, Macklin's "Man of the

World," and refused to let it be played, or to let the author have it back. Ten years this British dictator swindled the author out of the MS., as well as the public out of the play. It was only got back by private interest at last; and the moment it was played the public pronounced the jack in office an idiot as well as an oppressor. How many good plays were thus lost in those days, who knows? All secret tribunals are dark, deep wells of undiscovered iniquity.

As civilization advanced, the personal oppression and seizure of property by the lord chamberlain relaxed. But the frightful monopoly of the two theatres in a doubled population remained, with all the evils that attend monopoly. Gigantic rents demanded by the proprietors from the managers; gigantic prices required by the managers from the public; while a market, thus artificially contracted, left room but for few authors, and so choked talent. Then, the public groaning, came a juggle truly characteristic of an English official of the last generation dealing with the fine arts; a hog in tulips. Other theatres were allowed to open, provided they would undertake to sell the public bad garbage for good money, and not wholesome meat. "We, who have assumed powers we don't concede to our sovereign, because this is a free country (gammon!), and he is not, like us, a god in wisdom, we decide thus: we allow you to play low buffoonery unmixed, or to sing rational dialogues provided the fiddles are going all the time; but you must not sell good sense, still less the masterpieces of mind, in second-rate theatres. Your audiences are low: it is a moral, and therefore a legal duty to keep them low, and not bring them and the fine arts together, to degrade high things and raise low minds. Keep things and men in their places. 'Whatever is, is right,' especially if irrational; buzz!"

At last, by the mercy of Heaven, an artist strayed into the British House of Commons. He soon obtained a select committee to examine dramatic literature.

The blue book lies before me. Forty-one authors, actors, and managers are here examined on oath, and every interest fairly represented, and severely cross-examined. On the evidence thus collected the committee reported to the house that there was a real decline in the literature of the stage, and the taste of the public for theatrical performances; and that the main causes were

"The uncertain administration of the laws (a); the slender encouragement afforded to literary talent to devote its labours to the stage; and the want of better regulations as to the number and distribution of theatres."

6. "In respect to the exclusive privileges claimed by the two metropolitan theatres, it appears manifest that such privileges have neither preserved the dignity of the drama, nor been of much advantage to the proprietors of those theatres."

7. "In regard to dramatic literature, an author at present is subjected to indefensible hardship and injustice; and the disparity of protection afforded to his labours, when compared *even with that granted to authors in any other branch of letters*, seems alone sufficient to divert the ambition of eminent and successful writers from that department of intellectual exertion."

The sworn evidence fully bears out the report.

1st, It was sworn that for some years the good old system of remunerating an author according to his merit, viz., by the overplus of the third, sixth, ninth nights, had been discontinued here, and pieces purchased instead, generally for a very low price. Thus merit was levelled with mediocrity.

2ndly, That the author was deliberately and habitually swindled out of his pieces, sometimes in London, in the country nearly always.

Mr. Moncrieff deposed that he produced "Giovanni in London" at a minor theatre. Drury Lane Theatre, one of the monopolists of the legitimate, sent and stole this piece, *an illegitimate one*, played it in the teeth of the author, and laughed at the idea of any author's dramatic work being property, like a carpenter's. Monopoly at one end of the stick, theft at the other.

3132. "What did you receive for it?"

"I was cheated of it altogether. I never got but 10*l.* for it." [The next answer explains that in consequence of the theft and its success, the manager had engaged him to write

(a) See the evidence of managers Osbaldiston, 94, and Davidge, 76, and all the authors, especially Moncrieff and Jerrold.

for the theatre at 10*l*. a week. But that was not buying the piece; on the contrary, Moncrieff was worth a great deal more than 10*l*. a week to the theatre.]

8133. "Was it published?"

"Not till two booksellers applied to me, each to protect himself against the other, neither of them having any right to publish it at all." [N. B. Drowning thieves catch at a straw, the author's rights.]

8140. "Mr. Elliston played the piece in defiance of you?"

"Yes.

8141. "And made money by it?"

"A great deal of money. He brought out *Madame Vestris* in it." [He paid her, I'll be bound. It is only the benefactor, creator, and maker of all these puppets who is swindled from generation to generation, and from age to age.]

This Elliston is the same caitiff that stole a play of Byron's, and played it in defiance of the author's and publisher's rights in 1825. An injunction was applied for (*Murray v. Elliston*). Chancery sent the question to law. The five judges decided, "Refuse the injunction." They did not give their reasons, which is most unusual in a case outlawing a whole class of the community. But the fact is they dared not give their reasons. The fraud was a thing to be done, but not to be justified on any principle of law that would bear a general application, therefore the court became a secret, silent tribunal to work iniquity. The silent hog eats the most authors.

A wheelbarrow they would have respected, because that is a low kind of personal property; but Lord Byron's child was by law, during its period of existence, the highest kind of personal property. How could they sympathize with *it*? And the man that created the property, how could any human feeling for *him* enter their breasts? Neither Bob Elliston, nor his confederates in iniquity, those five pickers and stealers on the judgment-seat, were empty of human kindness in general. But here the same cause steeled the judges' hearts that had steeled the actor's heart; the writer was their intellectual superior.

These five tamperers with law and morality soon found pupils to carry their principles into practice.

They say, Give a rogue an inch and he will take an ell.

That is not true in copyright. Give an author swindler half an inch, and he never has failed to take the whole piece in any age or land. Those five author jugglers, and Lord Kenyon (*Colman v. Wathen*), and Satan their leader, the only one of the confederates who had the wit thoroughly to comprehend what he was doing, begat Kenneth, and Kenneth begat pirates as a toad spawns tadpoles.

Kenneth, the son of Kenyon, and the five who bade swindle Byron, is described at full in Richardson's "Recollections."

Extract from Douglas Jerrold's evidence, Blue Book, p. 156:—

"'The Rent Day' was played in the country a fortnight after it was produced at Drury Lane; and I have a letter in my pocket in which the manager (provincial) said he would willingly have given me 5*l.* for a copy had he not before paid 2*l.* for it to some stranger." [Mr. Jerrold goes on to say he knew perfectly well who "some stranger" meant. "Mr. Kenneth, at the corner of Bow Street, will supply any gentleman with any manuscript on the lowest terms."]

2800. "How does he procure them? is it by a short-hand writer? (a)

"He steals them somehow.

2801. "This is previous to publication?

"Previous to publication. Authors receive a double injury: in the first place they are not paid for their pieces, and in the next place they are represented by the skeletons of their dramas; so that the author is not only robbed but murdered."

This single pirate closed the provincial market to all the dramatists in England, at a period when the vast decline of prices in London made it more necessary than ever to their bare existence.

Shallow dreamers, to whom the past is a dead letter, tell you now that Englishmen *cannot* write plays. Forty years ago shallow dreamers said Englishmen could not paint pictures. Ask any old gentleman of taste you know whether he does not remember the time when it was the creed of the

(a) Kenneth went to the theatre with a short-hand writer, who took the words down and the "mise en scene." He had copyists ready at home to transcribe, and the stolen goods were on the way to the provincial fences in a few hours. — Richardson, Vol. I., 272-6.

upper classes in this country that only foreigners could paint at all, and only a dead foreigner could paint fit to be seen. If you have not access to such old gentlemen, consult Pye's "Patronage of British Art," a standard work, and he will show you that this was the creed of the country for more than a century, and was held to far more universally than the Thirty-nine Articles. It was imbedded in the English understanding like a pebble in a plum-pudding stone. Let us knock the two cants together. I wish I could do the same good turn for the canters' heads.

Knock the First.

There are now in this country more independent painters viewing nature for themselves, and interpreting her their way, than in any other nation. All the other schools in Europe are stationary; ours is striding on like a giant. In one branch of the art, water colours, we are unrivalled. In the other we very soon shall be.

Knock the Second.

Compare the prices Lord Northwick gave for his English pictures with those they sold for the other day. There is the solution. The prices of pictures have risen more than eight hundred per cent. in fifty years, and the number and merit in exact ratio. Mr. Holman Hunt has just spent three years on a picture. The result is an immortal work. How could he have given three years to a picture fifty years ago? The thing was impossible.

Prices of English Pictures and Plays now-a-days.

| | £ |
|------------------------------------------------------|-------|
| Sunday in the Backwoods — Faed | 1,310 |
| Sleeping Beauty — MacIise | 900 |
| Eastward Ho! and companion, two pictures | |
| — O'Neil | 1,857 |
| Uncle Tom and Wife, two little dogs, a <i>week's</i> | |
| <i>work</i> — Landseer | 800 |
| Il Duomo, Milan — Roberts | 1,010 |
| Port na Spania — Stanfield | 1,300 |

The above were sold under the hammer at Glasgow in April last.

Sold at Christie's the other day.

| | Guineas. |
|--------------------------------------------------------------|----------|
| Entrance to Calais Harbour — Cooke . . . | 350 |
| Unloading a Smack — Walters . . . | 315 |
| Almsdeeds of Dorcas — Dobson . . . | 570 |
| The Passing Cloud — Hook . . . | 270 |
| Perdita, a single figure — Leslie . . . | 243 |
| A Landscape with Cattle — Troyon . . only | 59 |
| Give, and ye shall receive — Philip . . . | 360 |
| Angelica Kauffman — Reynolds . . only | 75 |
| Bohemian Gipsies — MacIise . . . | 1,030 |
| The Storm — Linnell . . . | 400 |
| Pony and Boy, etc. — Landseer . . . | 825 |
| Solomon Eagle preaching in the Plague — Poole . . . | 780 |
| David slaying the Lion, with Landscape — Linnell . . . | 770 |
| At another sale, Titania, Bottom, etc. — Land- seer . . . | 2,800 |

Knock the Third.

For "The Lady of Lyons," which in relative importance is worth any four of the above pictures, Sir E. Bulwer is said to have received 500*l*. Had he been a Frenchman it would have been 6,000*l*.

For the immortal "Rent Day" Douglas Jerrold received 150*l*. (Blue Book, p. 157.) Born in France, he would have received 3,000*l*. For "Black-eyed Susan," 60*l*. The actor that played the principal part received 4,000*l*. for playing it during its first run in London.

For the stock comedy of "Masks and Faces," Tom Taylor and myself received 150*l*. It is worth, as a work of art, about as much as the best of those pictures. In France we should have had 3,000*l*. at least for it. For the drama of "Two Loves and a Life," we received 100*l*. In France a play of that merit is worth 2,000*l*.

For a *story* inferior to either of these plays I have myself received 1,100*l*. in England.

For "Tom and Jerry," Moncrieff received 200*l*. It brought twenty thousand pounds profit to the theatre!

Now, if you please, we will look at the plays, and pictures, and stories of the last century.

Knock the Fourth.

| <i>Johnson.</i> | £ | s. |
|------------------------------------------------------------------|-------|----|
| "London," a short but immortal poem . . . | 10 | 10 |
| "Vanity of Human Wishes" | 15 | 15 |
| "Irene," a wretched bad <i>play</i> | 315 | 0 |
| "Lives of the Poets," worth 2,000 <i>l.</i> | 200 | 0 |
| "Dictionary," eight years' labour, worth 6,000 <i>l.</i> | 1,500 | 0 |
| "Rasselas," worth 500 <i>l.</i> | 100 | 0 |

Goldsmith.

| | | |
|--------------------------------------------------------------------------------------------|-----|---|
| "Vicar of Wakefield," worth 3,000 <i>l.</i> . . . | 60 | 0 |
| Comedy, "Goodnatured Man" | 500 | 0 |
| Comedy, "She Stoops to Conquer;" theatre, 500 <i>l.</i> ; copyright, 300 <i>l.</i> | 800 | 0 |
| "A Short English Grammar" | 5 | 5 |

Hogarth.

An account of his prices cotemporary with the above : —

| | | |
|---------------------------------------------------------------------|-----|----------|
| Six pictures, "Marriage a la Mode" . . . | 120 | guineas. |
| Deduct expensive frames, which cost him four guineas each | 24 | |

| | |
|---------------------------------|----|
| Profit | 96 |
| Worth 6,000 <i>l.</i> at least. | |

| | £ | s. |
|---------------------------------------------------------------------------------------------|-----|----|
| Six pictures, being "The Harlot's Progress," 14 guineas each | 88 | 4 |
| Eight pictures, "The Rake's Progress" . . . | 184 | 6 |
| "Morning" | 21 | 0 |
| "Noon" | 38 | 17 |
| "Strolling Players" | 27 | 6 |
| This picture, painted by one of his imitators in this day, would fetch 800 <i>l.</i> | | |
| Four "Election" pictures | 210 | 0 |
| In 1823 they fetched 1,700 <i>l.</i> under the hammer; now they would fetch 8,000 <i>l.</i> | | |

Gainsborough, from 1760 – 8, painted his lovely landscapes, and was fast dying of starvation, till he gave up art,

and took to painting his customers' own faces. Then he got a living, for tasteless vanity is of every age. Reynolds comprehended his age from the first, carefully eschewed art, and painted his brutal customers' faces. *After twenty-five years disloyalty to art and fidelity to low vanity*, he got high prices. The great Wilson, who would not turn upholsterer and paint looking-glasses for vain jackasses and jennyasses to see themselves flattered in, lived and died in indigence. He had often to sell his pictures to brokers, and they sometimes lost money by them. A shoemaker in Long Acre, less blind and tasteless than many educated animals of the day, used to buy them, and generally have one in his window, which he sold with difficulty and for a few pounds.

Meantime —

Knock the Fifth. — Wilson's Dramatic Coteremporaries.

| | £ |
|-----------------------------------------------------|-----|
| "The Follies of a Day," comedy — Holcroft | 600 |
| Copyright of ditto | 300 |
| "Road to Ruin" | 900 |
| Copyright of ditto | 400 |

Coleman received 1,000*l.* for the drama of "John Bull" somewhat later.

Holcroft's receipts merely represent a very successful play. He was not favoured. They all got the overplus of three nights. "The Road to Ruin" filled the theatre, and "Irene" did not: that is all the difference.

Copyright alone of two tragedies by Jephson, 150*l.* apiece. — *Malone in Prolegom.*

Copyright alone of the "Heiress," by Lieut.-General Burgoyne, in 1786, 200*l.*

1750. "The Brothers," by Dr. Young. Stageright and copyright, 1,000*l.*

1728. "Beggars Opera," 2,000*l.* Stageright, 1,600*l.*; copyright, 400*l.*

"Polly." License refused by chamberlain. Copyright, 1,200*l.*

1723. "Mariamne," by Elijah Fenton. Stageright and copyright, 1,000*l.*

This takes you back to a period already treated, *supra*.

Knock the Sixth.

In France the dramatist has now for many years been paid by a percentage on the gross receipts every night his play is performed : this has a main feature in common with our three night system ; it rewards in proportion to success. It is the healthiest market the world has ever seen since Shakspeare's day. It not only secures a large remuneration to the author, but a mathematically just one. He is paid in exact ratio with his merit, since a good piece runs many nights, and fills the house, and a bad piece runs few nights, and does not fill the house. To this system, and just judges, do the French owe their present dramatic superiority.

Under the French system a good first piece is worth 1,500*l.* to 3,000*l.* Ponsard received 4,000*l.* for "*La Bourse*;" Dumas fils must have received 5,000*l.* for "*La Dame aux Camélias*." The consequence is, every master of fiction in France writes for the stage. Talent always follows the market. France has a great national drama, and, while that system lasts, always will. So should we. That system would raise a drama in Zahara.

Now realize our position. Piracy cuts the English inventor's throat by means of French justice. If the French were a nation of thieves and idiots in re dramaticâ as we are, we could afford to remain the thieves and idiots we are in re dramaticâ. But their intelligence and probity enables English rascality and folly to extinguish the English drama. Paris, under her honest system, like the good soil in the Scripture, is so fertile that she can enable thieves to supply all the London theatres with stolen novelties. True, London is larger than Paris ; but by monopoly the London theatres are reduced to the Parisian number, and the number of pieces our theatres require is reduced below the Parisian figure by piracy. As thus : in the honest city, that produces "*Don Cæsar de Bazan*," by making it worth a man's while to invent him, "*Don Cæsar*" can only be played at one theatre ; but in the Newgate-thief-cum-Bedlam idiot city, that steals French plays instead of buying them, "*Don Cæsar*" can be played at all the theatres, alias fence houses, at once. He was played at about seventeen London theatres I believe, excluding sixteen other pieces. In Paris he could exclude but one. "*Corsican Brothers*," ditto, and many others. Probable effect on the London public may

be inferred from this fact; a stage-struck friend of mine left England flying before the face of this single comedy. And whither think you he fled for refuge from "Don Cæsar"?

To Paris.

"*I am off to Paris,*" says he. "I shall see a dozen French plays there. In this confounded hole I can only see one."

That was a voice from the English public.

This Englishman fled from a barbarous little French province to the great French metropolis. Galliam Cæsare profugus Scribianaque venit littora.

The *Parliamentary Committee* led to an enactment which, unlike most of our statutes, is clearly worded, by some man of genius, whose heart is with the honest author. This act forbids the pirate to steal "a play or any part of a play."

The miserable scribblers, who word most of the statutes of the realm, can no more put such master words as that into a statute, than a jelly-fish can fly. The half honest men who pass most of our copyright acts are incapable of such words. Their plan is this: twelve long paragraphs in favour of the honest man, and thus worded, "Buzz! buzz! buzz!" Then one clear sentence, containing the master swindle, that knocks all that buzz, buzz, buzz on the head (a). The honest sentences are in Norman French and jargon; the swindle is in plain English. The reason is, their hearts, the best thing they have about them, are with the pirate. The heart speaks clear. Their heads and their consciences, the two obscurest and feeblest things they possess, are with the honest man.

On that rock of granite, the dramatic act of Will. IV., I now invite the statesmen of the day to build a great and glorious national drama in these islands, by repealing tyrannical monopoly and Cleptomania. Any man can set up a

(a) Such are the two international copyright acts of 1838 and 1844. In favour of the foreign author, buzz! buzz! buzz! Against him the master swindle robbing him in a single sentence of all property in his ideas; permitting any man to translate him. Suppose a foreigner relying on all that buzz printed his work in England, then the true favourite of the legislature, the heartless pirate, translates it. And pray what chance has the foreigner in that competition? It is not in nature that the public should buy enough copies to pay the expenses of any work in a foreign language, when they can buy it translated and cheaper; for the larger sale admits low price.

publisher's shop, and any man ought to be able to open a theatre. The distinction is unreasonable, un-English; for it gives unconstitutional powers to a subject, and is a mere superstitious relic of a system of false legislation exploded in these islands for blighting every plant it touched. Nor has it any exceptional ground to respect. It was passed into law by the most notorious rogue, as far as we know, that ever administered public affairs in England, from a motive purely personal; the means bribery direct, preceded by theft; for this minister used to bribe honourable gentlemen, not with his own money, but the public money. In fact, if he had not happened to be premier, he would have been hanged nearly every month in those pendulous days. All his cotemporaries, who loved the constitution or respected the rights of Britons, cried shame on the measure in both houses. Why, then, perpetuate an unconstitutional Act, whose object exists no more, whose motive you despise, and whose originator is a by-word? There is no reasonable objection to free trade in *theatres* that is not cured by a distinct provision, the censure of *plays*. Let the plays be proper, strictly proper, as much more proper than "Faust and Marguerite" as you think proper; but to limit the *shops* is superfluous. It is Austrian legislation, not English, and drives men to far worse places, and puts arbitrary, physical limits to a whole class of productions of the human mind.

If this proposal is too strong a dose of common sense and sound policy for my cotemporaries, why then leave that to the next generation, my little dears, or the next after, and let us at least cut off the other end of this rotten stick by repealing

Cleptomania.

"Cleptomania" is a term the doctors give to a certain unreasonable itch for stealing, which affects respectable people, overpowers common sense, religion, and *their true interest*. True Cleptomania seldom occurs except during pregnancy. Some persons in that interesting state are very delicate, and cannot keep their hands off articles of commerce, so unstrung are they. They appropriate pastry, or pocket handkerchiefs, or jewels out of shops, at a frightful risk, with money in both pockets to pay for them.

It appears that a sort of physical craving, for the article

of commerce really comes over the sufferers by this ailment. There was a case years ago of a lady of high rank who could not keep her hands off the things, but used to send them back. Conscience revived the irresistible itch once satisfied. I have heard on good authority of one whose disorder drove her upon cheese-cakes, and the sly pastry-cook never said a word, but used privately to charge the husband six cheese-cakes for every one she stole. The poor husband always paid the bill blindfold, and only too glad. Thus the British trader overpowered theft at its own weapons, in which there is something grand. In one or two well-known cases, recent ones, an iron shopkeeper has confounded this disease with a moral disorder, whose external symptoms are the same, and taken the sufferer up. In these cases her conduct never varies; she comes to the bar dressed richly, but plainly; holds her tongue, and cries the whole time. Thus nature, whose victim she has been, relents, and teaches her to liquidate the debt she owes to justice. So bedewed we turn syrup, and don't know what to do with her. When the theft is thoroughly irrational (half as irrational as the satanic proviso will do), and evidence is forthcoming that she was really parturient, the magistrate is very lenient. But our legislative chambers have not the same excuse: all the women there are old ones. Why then this Cleptomaniacal proviso, which holds out one hand in friendship, and filches with the other from the foreign dramatist and composer, and stains the national honour in order to gain a loss by robbing the English inventor of a fair remuneration, and the English public of a national drama, and original music, and the true text of foreign composers?

It cannot seriously be pretended that this proviso was inserted to balance interests. What single interest is benefited in any proportion to the loss those three great interests suffer? If the trader gained all those three great interests lose, then I admit it would not be Cleptomania, but an old acquaintance in England, — swinish partiality for the godlike shopkeeper, swinish antipathy to the *immortal* (a) author. But there is

(a) Whenever copyright is at stake, it's the immortal author whose interest is at stake. The ephemeral scribbler *cannot be pirated*, and his labour is always paid in proportion to the time bestowed on it. It is therefore only by means of severe copyright you can raise the immortal author to *as good a commercial position* as ephemeral writers fill without a copyright.

not that excuse. The godlike shopkeeper, whether theatrical manager or publisher, is not profited in the same ratio as the three great interests suffer. My Lords Beaumont and Cranworth seem to think he is (April 30, 1852, Hansard); but they are misled by a hasty glance at a subject, which lies in a fog because genius has never shone on it. They were deluded by two errors: 1st, they fancied that under international copyright the godlike shopkeeper would have to make the low dog of a foreign Shakspeare *a present*. Pure hallucination, my lords! 2nd, they mistook one small figure in a complicated account for the sum total an edition costs the godlike shopkeeper.

Let us come out of the fog into figures.

I begin with the publisher. It matters little what figures we select to deal with, so that the proportion is kept. Take Longman's, furnished to M'Culloch's "Dictionary," p. 161. Expenses of a thousand copies of a 12s. book:—

| | £ | s. |
|---------------------------|-------|----|
| Printing and correcting . | 101 | 10 |
| Paper | 64 | 0 |
| Boarding | 32 | 0 |
| Advertising . . . | 60 | 0 |
| | <hr/> | |
| | 257 | 10 |

Now suppose this to be a foreign work, then we must add, say 25*l.* to the translator; total 282*l.* For this sum the publisher in the year 1850 would get what? The books and publicity, and nothing more. Comes the international copyright in 1851, and for 25*l.* more to be paid the inventor, or 307*l.* instead of 282*l.*, gives him something of gigantic value — gives him *property*, *i. e.*, the sole right of selling those copies and creating others. 282*l.* for the right of grazing with all the parish on a common; 307*l.* for the right of enclosing the whole common for your own use.

In dealing with an English author of reputation, copyright is by far the *heaviest* of all the publisher's *investments*, yet it is the most profitable. In dealing on the square with a foreign author, it is *the lightest of all the publisher's investments*, yet infinitely the most profitable. Now suppose a publisher that knows his business, as a hosier always knows his. Such a man selects good and popular foreign works.

easy as shelling peas. The S. P. enables men of no dramatic genius, nor even talent, to steal plays and sell them. The managers, knowing any fool can do it, propose to themselves to get the stolen goods for nothing. They work in two classes. The second-rate theatres (three-fourths of the whole) pay some low scribbler 5*l.* to steal them a French piece. It runs fifty nights, which is 2*s.* per night for authorship. The gas, the carpenters, the actors, the fiddlers, the rent, cost the manager say 40*l.* a night. The work of art, to play which the actors mouth and rant, to set off which the painters paint and the fiddlers fiddle, costs 2*s.* per night. Thus does the English prig profit by swindling the French author. God is just to Frenchmen if we are not, and does not smile on those who swindle men of merit merely because they are in England what he was in Abraham's tent. The respectable manager deals in larger figures, and drives a more complicated bargain, but quite as keen and silly a one. He gives 40*l.* – 100*l.* for a stolen piece; but to whom? In most cases to a *journalist* that steals French pieces. This journalist is one of a camaraderie, a gang of prigs and venal judges, sworn to mutual protection, and to exclude, if possible, all interlopers. Under the apparent bargain then lies the real bargain, an interchange of bribes between a prig and a fence; 60*l.* for the piece, *i. e.* 10*l.* for the Frenchman's intellect and 50*l.* for the Englishman's immorality, and his pals'. The thing is too notorious to require proof. However, here is an independent witness for you:—

•

Chambers's Journal, July 24, 1858.

“He sees the true relation between the London dramatic author and the critic of the daily paper, and sometimes stares to find them one and indivisible. Most of our play and farce writers are on the press; and a shrewd manager takes care to select his authors accordingly, knowing that they form a clique, of which each member is bound to puff the other's production, because all in their turn need a similar favour [*i. e.*, *laudari a laudato*]. Outsiders seldom get a piece accepted; but when they do, what a gauntlet of criticism they have to run!”

This is virtually a monopoly. Theatres limited by tyranny; number of writers limited by conspiracy. Most

traders would buy the press if they could ; and pay high ; but they cannot. Indirectly the manager can. Hence it is that *London* theatrical criticism wallows in fraud and corruption, like a hog in a sty. Its impudent venality is not of our age. It is what political criticism used to be under Harley and Walpole, and for the same cause. And so the public is duped and defrauded. English genius excluded from the stage, and the dramatic art pines for want of honest criticism.

"Pessimum inimicorum genus laudantes,
Alitur vitium vivit que tegendo," etc.

For though this artificial bolstering up of mediocre art by venal praise seduces what Mr. Chambers is polite enough to call "shrewd" men, yet wise and well-read men know by the history of the arts, that under this clique protection they always lose their popularity through declining in merit. Shrewd indeed ! to lay down their sick man under the shelter of the upas tree.

All this the removal of the adaptation swindle would cure by slow degrees. Fences' prices (*which cannot exist in trade but by crime*) would be abolished with that mean fraud, and the false and inverted scale of remuneration, which has shocked every upright mind and feeling heart, would receive its death blow.

In England the tailor who cuts is paid more than the tailors who sew his work, and in France the author draws about one-tenth of the nightly receipts of the theatre that plays his piece. At fifteen London theatres out of twenty he draws about *one five-hundredth* of the nightly receipts of his play ; yet the theatres thrive far better in Paris than here. Hence I infer that God looks upon an author and his dependent family as human, though these brutes do not. Compelled to buy from France instead of stealing, the managers would cease to narrow their unconstitutional monopoly by closing those few theatres to original English talent. They would no longer play mediocre French pieces rather than read an original MS., which is confessedly the case now. They would select the *best* French plays, and pay for them such a price as the poor English inventor might just manage to compete with without dying of absolute starvation. And they would not play quite so many French pieces

church. The equivocal was not I think quite so clumsy as the Jew (a) quibble, but it did its work. About five hundred thousand insular understandings succumbed under this thing like one very small child kicked hard in the abdomen by a giant.

I could cite you a melancholy list of this stupid giant's triumphs over the mind; but to the equivocal on hand. The word "monopoly" means *an arbitrary restriction of the right of sale to certain persons limited and specified*. But one fine day one of those addlebrats, that infest legislation, applied the term monopoly to any restricted right of sale, no matter how acquired, or how open to acquisition. But in this sense the term was sure to get confounded with "property" by sloppy thinkers; for every man has by nature the sole right to sell his own property.

"Cheek by jowl" is the antidote to equivocal.

Monopoly applied to
French tobacco.

Tobacco, no matter how acquired, can by law only be sold to the French public by certain persons limited and specified by the government. On any infraction of their monopoly the law will interfere with *special remedies*.

French tobacco, put on
the basis of Copyright.

Here is a piece of ground common to the whole nation. Whoever applies his labour to this, and rears tobacco, shall have the sole right of selling so much and no more of it than he produces. This sole right he can sell to any dealer in tobacco and pipes; and as there are *special facilities* for evading this right, the law will interfere for its protection with *special remedies*.

Monopoly,
as it applies to English
tobacco.

No man, woman, nor child
must grow tobacco for sale in

Copyright applied to
English tobacco
(hypothetically).

Any man, woman, or child
may grow tobacco for sale on

(a) For Heaven's sake don't think I am putting my nose into politics; and objecting to the admission of Jews into Parliament. I don't trouble my head about such trifles. What I object to is bad logic being admitted there. Where there are sound reasons for a measure, that is not exactly an excuse for advancing rotten ones.

the British isles. Imported tobacco, after duty paid, is free. The foreign grower has a sort of monopoly, it seems.

common lands in the British isles. So grown it becomes property: no pirate must gather for sale what his neighbour has so grown, and he has been too lazy to grow.

Monopoly applied to mental productions (hypothetically).

Copyright proper.

1. Only certain specified persons must write, and create copyright.

2. Anybody may create copyright, but only certain persons must deal in it between author and public. i. e. Certain persons only must publish,

or,

Anybody may publish, but the wholesale or else the retail booksellers must be limited.

3A. The number of theatres selling plays must be limited.

There are twenty-eight million people in the British isles. Every one of these human creatures, by bestowing his labour so as not to rob his neighbour, is permitted by law to create an intellectual production. This he, she, or it, has the sole right of selling. The right is transferable by sale, to a publisher or any dealer, who then takes the producer's place. It is a right resting on the same *moral* basis as that of a man building a house with his own hands out of allowed materials. The man has the sole right to let or sell the *fruit* of his honest labour.

Copyright then you see has all the *essentials* of property, and lacks all the *essentials* of monopoly. In the single instance marked 3A monopoly exists, but is adverse to copyright, not protective of it: rather suppressive of its natural growth. There never was a monopoly in creation open to every individual in a nation upon any terms; still less open as an uniform and legal consequence of honest labour, or purchase from labour. But we can all create copyright, and we can all set up as booksellers. Mr. Justice Talfourd knew perfectly well what he was saying when he wrote into the Act of 5th and 6th Victoria that "all copyright is personal property."

The blunder perhaps arose by confounding the mode of protection, which is exceptional (to meet an exceptional attack), with the basis of the right, which is universal, being

simply a man's exclusive right to the fruits of his unsalaried labour.

The equivoque I have here briefly exposed will be presented to you thus. In the premises "Monopoly" will be used in the sense of "property:" in the conclusion it will figure in the sense of "Monopoly." This dialectical fraud has duped most English minds for the last ninety years. It will surely dupe no reader of mine, whose brains are not made of train oil.

I am not a freebooter: I am not a protectionist. I am a free trader. I don't want a duty on French plays. Heaven forbid. I want them to be admitted under the banner of Free Trade, *i. e.*, honest purchase, and entry into our ports duty free. *Most of our producers are still protected by duty being laid on the foreign production. No one of our producers, from John o' Groat's house to Lizard Point, is subjected to the competition of goods not only duty free, but purchase free — the dramatist excepted. Why separate the dramatic author, English and French, from all creation? Why outlaw Shakspeare pro virili? You pretend to revere him! yet if God let him come on earth again to-morrow, here is a swindle that outlaws him, with no motive but the holy itch for outlawing Victor Hugo. What an act, with what an excuse! They improve but little by being reversed. In that view the Cleptomaniacal proviso outlaws French genius, with no earthly motive but to outlaw English genius. With this I commit "the Monopoly equivoque" for the present to the care of Mr. John Bright.*

Patent right is own brother to Copyright. It also has been too harshly called a monopoly. It is a property not so utterly (a) helpless as copyright: but still it is so easily invad-

(a) The printing press is an invention almost supernatural, and *has no parallel in creation*. It is by forgetting this, men wander into hollow comparisons. A great genius with ten years' labour produces a masterpiece of the mind, and prints it for his remuneration. The next day three quiet idiots in Bedlam, by means of that astonishing machine go to work and reproduce exactly the intellectual effort of the master. You can't tell the idiots' copy from the author's. But the author has got not only the expense of printing and paper to recover by the price of his book, but also the ten years' labour, say 4,000*l.*, putting him at the rate of a merchant's clerk. The three idiots therefore can sell their copies at a profit three or four times as cheap as he can, copies that are

ed and speedily destroyed that the law preferring the *lasting interest* of the public, viz., the encouragement of inventors to *its immediate interest*, which is, to steal every existing copyright, patent right, volume, machine, and outlying shirt in creation, does wisely and justly protect it by special remedies.

Extract from a Weekly.

"In the Court of Chancery the suit for declaration of rights between Mr. John Bright, M.P., and other parties, for working a patent in carpet printing, came to a conclusion after having occupied six days. [Good gracious! they had been and printed every living creature on wool. And the Court took them all in the order of Genesis.] The decision was in the main in favour of Mr. Bright, etc. No costs allowed."

Mr. Bright then holds a mechanical copyright, or a share in one. He holds it either by invention or honest purchase (I'll bet a thousand guineas to a shilling he does not hold it by piracy), and he can tell the difference between monopoly, which he dislikes as much I do, and property, which we all love, and don't like to be done out of it. Then why do Dumas and Scribe out of it? My French brethren and I trust to Mr. Bright never to let the house confound stage right, patent right, and copyright, with arbitrary monopolies such as tobacco in Austria, and the London theatres in England.

Generally, I advise the lovers of equivoque to study our only contemporary who uses it intelligently: "Punch." The pun is the one sensible form equivoque is capable of. So applied it amuses even the wise, and wrongs nobody.

But to take what Heaven has given us for our innocent amusement, and gravely to level it against the sacred rights of property and skilled labour, is to be damnably wicked and silly, yet not a bit funny.

worth just as much. The idiots can even print cheaper than he can: for it costs less to compose from printed matter than MS., and does not require a fortieth part of the intelligence. The Patentee is subject to a similar attack, but not quite so massacring a one. There is no demi-supernatural machine for reproducing mechanical inventions; and I read with gusto that some of the attempts to swindle James Watt failed. They could not pirate his work always. It needed too much brains even to imitate it. The poor author has no such safeguard, and the Legislature in first giving or conferring literary property, not monopoly, comprehended perfectly the alternatives; Copyright, or starvation, or no more *immortal works*.

CAP. XVIII.

EPHEMERAL legislation is an anomaly. It is more monstrous than an ephemeral epic poem. Yet in the immortal arts nothing greater nor wiser than ephemeral legislation is usually attempted in England. Look at the century and a half of unteachable stupidity our statute book reveals. How many copyright acts each in its turn have proved mere rotten reeds, and have been repealed, and another rotten law substituted, till its turn came to be displaced for inefficacy and replaced by something inefficacious. Our legislation on other matters is not like this. In fact these brainless laws are not like any acts of the human mind, where intelligence and power meet in a legislative body: they are more like geese following one another across a common.

The main reason is, the legislator has never yet really loved virtue nor hated vice in this particular matter. He has also underrated the pirate, his stony (a) heartlessness, his diabolical cunning, and plausibility, and his mendacity, which has never in a single known instance recoiled from perjury in a court of justice; so keeps giving the pirate an inch, and the pirate keeps taking a thousand ells.

Would you be an immortal legislator for the immortal arts: instead of underrating your antagonist, which is the first step towards reducing your defeat to a dead certainty, picture to yourself Michael the Archangel binding Satan! I swear to you by Heaven you have got just such a job in hand whenever you frame a patent act or a copyright act, to defend author, painter, or engraver. Yet Michael did bind the Arch Pirate; but not by underrating his slipperiness: not by making the nooses easy for fear he should

(a) Pirates have repeatedly seen the author die of starvation, or kill himself, or go mad, as a natural consequence of the ruin brought on him by the act of piracy: *in no single instance* has one syllable of remorse escaped the murderer.

have no chance of slipping out at all. He bound him *in earnest* : and it is only so English law will ever prevail to bind the pirate, Satan's true type upon earth, supple, plausible, a thief, not *pro bono suo*, oh dear, no, *pro bono publico* : up to every move, but inventive labour, adapting, commenting, varying, imitating, discolouring, lying, equivocating, perjured, and remorseless as Hell itself.

The next step towards immortal legislation, is to believe in God quite, instead of half or one third. To ask yourself whether it can be pleasing to the Father of us all, that any human being should be picked out of all mankind and struck by his fellow-creatures off the roll of humanity, condemned to be robbed of the fruits of his inventive, unsalaried labour, though no other human creature can be robbed of the fruits of his unsalaried labour ; and this to his ruin and that of those who depend (a) upon him.

That he is only robbed of "incorporeal rights" (b) is the pettifogger's answer ; but it is no answer at all. His body and his children's are starved by the infraction of his "incorporeal rights." When Scapula and Henri Estienne come to compt, and that ill-fated scholar accuses Scapula of ruining, maddening, and killing him by "the abridgment swindle," will Scapula look up in that judge's face and say, "Oh ! it was only an 'incorporeal right' I swindled him out of" ?

A nice argument to offer to a judge who is himself incorporeal.

On this rock you may build anti-piratical legislation as immortal as your "Acts against cutting and maiming." But you must begin with four granite blocks : —

1. The habit of inventing is a far richer national treasure than a pyramid of stolen inventions.
2. Invention is, on the average, the highest and hardest

(a) Every able workman, in theory of legislation, and in average of fact, has a wife and children depending on his labour.

(b) Query whether even this term is not muddleheaded. Is the exclusive right to a piece of land corporeal ? No more so, I apprehend, than the exclusive right to printing a set of ideas and words. Say that my father has a piece of land, and dies intestate, where does my right to that land exist in a bodily form ? And if I occupy and till waste land not illegally, I obtain a physical property ; but my *right* to it is incorporeal, and not very distinguishable from copyright.

form of mental labour. It is the offspring of necessity, and nursed by toil.

3. Hence it follows that in whatever country inventions can be appropriated by theft direct, or adaptation, or any easy process, except purchase, the habit of invention is fatally discouraged, and each act of invention undersold.

4. Therefore, by pirating from foreign inventors, a nation scratches the foreign inventor's finger, but cuts the native inventor's throat, and robs its public of the true sun of invention, the national habit of inventing, a far richer national treasure (a) than a pyramid of stolen inventions.

On this basis, legislation, as immortal as the arts themselves, is quite within the power of the human mind; only to be immortal it must be clear, and, to be clear, it must be *worded* by an artist, not by a fumbler with words (b).

A single great nation has spared me feeble illustrations. The United States of America, a country young enough to make fanciful experiments in law, and elastic enough to survive them, has drawn an arbitrary distinction, in the teeth of her own excellent jurists, and all great lawyers

(a) The figures in the calculation have been mistaken. By stealing a foreigner's invention a nation saves itself a much smaller sum than dreamers fancy. The inventor's fee is seldom 10 per cent. on the gross receipts from the article as sold to the public; much oftener 5 per cent., or 2, or 1, and this in the foreign author would be reduced one half, and justly, because he shares with the translator or adapter, who is a native. To choke the habit of invention, merely to save those petty and temporary fees, is vile arithmetic, as well as bad morals and policy. Moreover, the habit of invention once formed, you will sell to the nation you have been buying from. Your slight self-denial paves the road to interchange.

(b) The three estates of the realm have often employed scribblers to word their statutes. This is preposterous. Every act of legislation is a masterpiece of language as well as thought, or it is an insult to the nation and to common sense. Writing is almost as much an art as painting. The French would as soon think of employing house-painters to describe their wars as scribblers to draw their statutes. Read their patent acts, and then read ours. You seem to descend from the heights of intelligence to the bass string of humanity. On their side, a masterpiece of construction and arrangement, sequent, articulate, clear, pointed; in a word, science expressed by art; on our side, a great, sloppy, verbose, obscure, shapeless blop, more like a jelly-fish half buried in sand than a production of the mind. Thinking is one art; expression is another.

alive or dead, between the mechanical inventor and the literary inventor. They are brothers throughout creation; but she chooses to take a nap, and dream that they are no relations at all. Strange to say, she has selected the elder brother for her victim. She will not allow any foreigner copyright, and she concedes to any foreigner patent right. And as she is not one of those who do things by halves, she is generous, as well as just, to the foreign mechanical inventor; with respect to fees, she regulates them by the price charged her people in the foreign nation. And when a *foreigner's* patent shall happen to be declared invalid, she returns two-thirds of the money. — Coryton, p. 353.

A British holder of an American patent has surer and easier remedies against piracy in the United States than he has in his own island. Now here is a double phenomenon of legislation, which, being opposed to reason, to equity, to all theory of law, to common sense, and also to almighty cant, never occurred before, and probably never will happen again while man shall be upon the earth. Whilst it lasts, then, let us put it to profit.

What is the effect on the American author and on the American mechanical inventor respectively?

The Mechanical Inventor.

American genius is at this moment at the head of all the nations for mechanical invention. I learn from Coryton, the last English writer on patents, that she took out her first patent in 1790; in 1800, took out 39 patents; in 1810, 222; in 1830, 551; in 1840, 452; in 1849, 1,076. At this last date she headed Great Britain, and has maintained the lead ever since (a).

Europe teems with the products of her mechanical genius. Her inventors draw large percentages from England, and no Englishman grudges them, for they leave us still their debtor. The pre-eminence this nation has attained in mechanical invention rests on the rock of statistics, and my little paltry experience can neither contradict nor confirm statistics: still I cannot help remarking, that I am sitting in

(a) Mr. Coryton compares three years, 1847-49. The American average was 769; The British under 500. — Coryton on Patents, p. 351.

London at this moment in a shirt which I happen to know was sewed by Mr. Singer's patent, and that there are three English newspapers on the table, two of which, the "Times" and "Lloyd's," were printed by Mr. Hoe's patent; the other probably was worked off either by the Adams' press, invented, I think, at Boston, U. S., or else by the Columbian press, which is still in vogue here, though long ago exploded in the leading nation.

The constructive genius of this people, stimulated by sound legislation, teaches us lessons at every turn. Look at their hotels, — the wonder of the world: ours are only the terror. Look at their cities, reticulated with telegraphic wires, so that at the first alarm of fire an engine is rung for: here it is run for, and that is why it often finds the house on the ground floor, and drenches the smoking ruins, which hiss it for not managing better. I go through the docks at Liverpool, and point out the biggest and smartest ships, and ask a sailor from what ports they come. It is always "Yankee, sir. Yankee. Yankee." We had been sailing yachts many years more than they had when they sent over the "America," and beat our fleet; and observe, the victory was achieved by mechanical construction, not by an extra cloud of canvas.

Oh! but the "America" was a wonder! a happy hit! a *lusus artis*, just as Shakspeare was a *lusus naturæ*.

Stuff and nonsense. She was a boat built on principle and no material wasted, by Mr. George Squeers, a mortal like ourselves; and when we legislate on principle, and economize words as he did wood, we may come to be as good men in our way as George Squeers is in his.

The "America" was built for a gentleman of Hoboken, on the understanding she was to beat the "Maria," a famous sailer in that part. She tried the "Maria" before she came here, and the "Maria" beat her.

From the cradle to the grave American invention accompanies an Englishman. Singer clothes his body, and Hoe gives his mind the news of his epoch an hour or two quicker than he could have it otherwise. Meantime American clocks are recording, up stairs and down, his waste of time and his progress to the grave. The what? That is an antique invention, and worn out. Here is Mr. Cannon, ready to receive him in a glass coffin; pumps out the air, seals him up

hermetically, and puts him respectfully out of people's way in a vault. There for centuries he can be inspected through the glass case, and so can the books he has written, "*and so can a mouldy pie?*" Don't be impertinent, miss!

We are not to be buried now, only shelved.

The other day an American hydraulist treated with Russia for wet goods; bought her ships under water at Sebastopol. While he was getting ready his machinery to raise them, and tow them away at his tail, he prepared his market. His advertisement was to this effect: "Any second-rate power that wishes to subjugate a third-rate country can have a tidy little fleet for the purpose by treating with me, Jonathan * *, in Sebastopol." One can gauge the intellects of nations as well as of men, and there is not another nation under the canopy of heaven capable of that advertisement, and also of acting in the spirit of it.

Such are hydraulics in the hands of *genius*; and such are this ardent people, the leaders of the world in mechanical invention and constructive skill.

The Literary Inventor.

This inventor, *by nature*, abounds wherever the mechanical inventor is abundant. The proportion is exact in France, England, and Holland, and other countries, except in matters dramatic and musical, where uneven legislation interferes with nature.

Now what is the position of the American literary inventor in the world? Does it correspond with the American patentees' position? On the contrary, it is a complete contrast, — a contrast the more striking, that the American mechanical inventor has only the same materials as our inventor, yet leads him, and eclipses him; whereas the American literary inventor, three times out of four, is content to imitate us, though his own materials are so much larger, more varied, and more abundant than ours.

There are invention and construction in all immortal books; but take the novelist and dramatist, who correspond more obviously with the mechanical inventor than some other writers do: what materials has an English novelist compared with that gold mine of nature, incident, and character, real life in the great American republic?

At the Himalaya mountains you can have all the climates of the world. Scorched at the foot by a vertical sun, you can go up a little and pitch your tent in Spain. Another mile, you can build your hut and live in France. Above, you are braced by the air of Savoy; and you may mount to Greenland. Here you command all the climates of the earth.

The United States offer to the writer of fiction a phenomenon as rare. On one rail you may run from the highest civilization to the very lowest, and inspect all the intermediate phases. You may gather in a week, amidst the noblest scenes of nature, the history of the human mind; and watch its progress. Here are red man, black man, and white man. Contrasts more piquant than occur at all in England spring up like weeds in the United States. Larger and more natural topics are discussed with larger and freer eloquence; and every moment the passions of well-dressed men burst the bonds of convention; and nature and genuine character speak out in places, where with us etiquette has long ago subdued them to a whisper. Yet with all this their novelists produce no rich American fruit, and the country does not possess a single famous dramatist.

Read the American papers. You revel in a world of new truths, new fancies, and glorious romance.

Read their fiction! how little! how stale by comparison! how unworthy of the swelling themes life supplies in this nation that is thinking, working, speaking, living, on a scale of grandeur, and at a rate of march, without a present rival, or a past parallel beneath the sun!

The reason is this: nine-tenths of their heaven-born writers are forced to be ephemeral writers, driven into the newspapers by uneven legislation, the newspaper being the only form in which intellectual labour cannot be undersold by stolen labour. In Great Britain there are 505 newspapers. In America there are 4,000; and there lies buried *for the present* many an immortal genius — buried, but to me not hidden. I can see their fitful gleams in reading those papers (a).

(a) Many of these are masterpieces of arrangement and method. As a general rule, the constructive skill of the nation is clearly shown in them. This production is worthy of the U. S. It utters thirty-nine convictions for every one the English press delivers.

Mr. Emerson, in course of a public speech last year, made use of these words :

" There are men in this country who can put their thoughts in brass, in iron, in stone, and in wood, who can build the best ships for freight, and the swiftest for ocean race. Another makes revolvers" [many a British officer's life saved in the Crimea by that patent], "another a power press," etc. But in another part he said, "a New York novelist should regard the world in a different point of view from his London cotemporary. But the truth is, scarcely one of our authors has yet thrown off English swaddling clothes. The great secret of the world-wide success of 'Uncle Tom's Cabin' was the fact that it was a novelty; that it had something peculiarly American in it. The works of American authors have been smothered under the works of English authors in the American market. Not only has the wholesale system of mal-appropriation most injuriously affected the interests of living American authors, but it has had a tendency to dwarf down the original literature of the United States to a servile copyism, and to check the development of the natural mind."

Americans would at this moment be just as low in mechanical invention if the statesmen of the United States had encouraged the theft of foreign patents. And in one generation under even rights they are as sure to beat our heads off at fiction, as the sun is to rise to-morrow.

The habit of invention is a richer national treasure than a pyramid of stolen inventions.

The legislator that sets his people to steal from the foreign inventor, scratches the foreign inventor's fingers, and cuts the native inventor's throat.

Now here is sound statesmanship, and rotten statesmanship, offered by the United States to our inspection, together with the results of each.

By her general experience of literature, as well as our special experience (dramatic), it is clear that, while that adaptation swindle lasts, great composers and great dramatists must never be looked for in England. The final extinction of the national composer would be a national disgrace and a national loss, not compensated by the holy joy of swindling Meyerbeer and Rossini out of a few pounds. The extinction of the dramatist would be a more general

calamity. This nation invests about two thousand five-hundred pounds a day in plays, or more than double what it invests in stories. To pretend that it is no concern of the legislator whether the public gets for all that money a genuine article or a bastard one, a good article or a bad one, is monstrous. I propose then to any legislator, who can rise to the moral and intellectual level of the question, to destroy the adaptation swindle and give Nature a chance.

If he will do so, I pledge him my honour, that in less than fifteen years, he shall see nature recover years of rotten legislation. He shall see both great English dramatists and a great composer rising, thanks to him and him alone. Probably no act of statesmanship he may do will be less appreciated at the time by our shallow cotemporaries; but none will be remembered and honoured so long after "dust to dust" shall have been pronounced over the noisy nothings of the day. For the arts, immortal themselves, confer immortal fame or infamy on their friends and their foes: and this day two noble arts plead for their very life upon these pages.

CAP. XIX.

Now, then, what is the verdict on the Cleptomaniacal proviso? Is it to go or stay? Which of these maxims is to rule the immortal arts?

Omne tulit punctum qui miscuit utile honesto,

or

Omne ferat punctum qui miscet inutile turpi.

In the Champs Elysées stands a building of peculiar construction. The lower half is stone, and the upper a vault of glass and iron. Methinks books should so be built. And, to narrow the lesson to my purpose, a writer may use arguments by way of superstructure, which would not do to build

upon. My appeal to you stands firm as a rock, on the granite of justice and sound commercial policy. What I shall now add is but the glass roof, and stands because founded on things more solid. Remember this when you hear some muddlehead saying that this glass is my foundation.

My flimsiest objections to the Cleptomaniacal proviso, are then as follows :—

A. It tends directly and indirectly to lower the moral characters of writers ; a class so powerful that it is bad policy to demoralize them, and is true patriotism to elevate their morals.

B. It checks the rise and security of a new property which is wonderfully adapted to cement peace between civilized nations : and it substitutes ill blood and the gnawing sense of injury for that blessed peacemaker.

C. It mutilates and defiles the text of immortal authors in two great arts, and palms brass upon the public for gold.

A. The legislature in this proviso tells a frail man, that if he wants to steal the ideas a French dramatist has protected at a vast expense, he has only to do what no rogue ever stuck at, lie as well as steal, and what most literary fools do of their own accord, viz., garble the original author. (a) Now this is no sacrifice ; for no mediocre writer has ever been able to see more than a small part of a great author's beauties. A clever horse-stealer has been known to dock a stolen horse's tail, trim his mane, paint him, *and sell him to the owner for a strange horse*. This last is a cut quite above an adapter : yet I have never heard that it was accounted to the horse adapter for righteousness, or patted on the back by Law.

About the year 1780, a young gentleman of distinction disappeared from the lawn of his forefathers in gorgeous array. His sorrowing parents sought him high and low. A month later, a little ordinary lad, with a dirty face and lofty profile, was found in a gipsy's tent. It was the lost heir. The children of Egypt had adapted him to their tent, as the English pirate adapts the French plays, and indeed with the

(a) Almost every play of Shakspeare's has been at different epochs adapted, and altered with flourishing prologues announcing the vast improvement. Have those improvements, belauded each in its day, stood the test of posterity ? What has become of Tate's, Dryden's, Davenant's, Garrick's adaptations ?

same arts, dirt and fustian : but it was not accounted to them for righteousness.

Mademoiselle Léonie Chereau was in love with a vaurien. She succeeded in seducing his person, but not his affections. After a while he broke off all commerce, except fitful receipt of articles of crockery from her : preferring, it would seem, mere emblems of frailty to the genuine article. In her despair she determined to anchor him. She announced the approaching birth of an imaginary child, "an infant of the mind:" and with wonderful plausibility and address (*rusée et bête*) she stole as pretty a boy as heart could desire, from his nurse, in the garden of the Tuileries. Wretched girl! thinking to appropriate a child, she had stolen a lion's cub. The seeming kid was Master Hua, the son of a judge. The first thing she did was to strip his fine clothes off, and adapt him to her own stage, the town of Orleans : but it was not confounded with righteousness (a).

Mr. Curtis, in his masterly work on Copyright, divides Piracy into three main branches. The following is his remark on No. 3 : —

No. 3. "Piracy by imitation, or by reproducing with colourable alterations and disguises, assuming the appearance of a new work.

"This is by far the most frequent form in which the copyright of authors is infringed." — P. 253.

The wrong therefore that unscrupulous dealers are most prone to do an inventor of their own accord, on that the law places a premium.

Now, I have denounced all monopolies except property : but how hard it is to be severely consistent! There is a monopoly so ancient compared with any other, and vested in such competent hands, that it extorts protection. The monopoly I refer to rests indeed on no written law : but it is founded on custom whereof the memory of man runneth not to the contrary. I mean the sole and exclusive right Satan has by long usage acquired to be the tempter of mankind. Not that I approve the practice even in his hands ; antiquity can-

(a) In the course of her trial the public prosecutor said to her, "So then you said to yourself, 'Je volerai un enfant.'" La Chereau turned red, gave a toss, and said severely, "Monsieur, je me suis dite, je me *procurerai* un enfant." I never knew a thief, in Newgate or out, that did not draw that distinction:

not make that right which was wrong from the first: but if it is to be done, he is the party. The English Government has no excuse for playing his part. Temptation is in capable hands: and he has an abundant staff.

The S. P. is an idle attempt to found good law on bad morality. Morality says, "the French historian, novelist, dramatist, are one citizen:" the S. P. draws an arbitrary conventional distinction between them: but this is beyond the power even of the legislator. You can't blot out the great landmarks of morality, and substitute lines as bodiless as the horizon.

There is very little fair dealing of any kind goes on between France and England in literary commerce; and this cursed proviso is the cause. It disturbs the balance of trade, and it divests the whole statute of the moral dignity which recommends law to that, without which law is a dead letter; public opinion. It demoralises doubly. The adapter, hitherto called a pirate in our courts, is here for the first time told by the legislature that he is an honest man. What is the consequence? *The pirates are now robbing English dramatists and English composers, and calling it "adaptation."*

"They thank the law for teaching them that word."

But the honest man does not.

A manager of a Manchester theatre has been playing a play called "It is Never too Late to Mend" 100 consecutive nights. He puts in his bill that Mr. Johnstone (*a*) is the author of this. It is a kidnappery of two properties of mine, my play, "Gold," and my novel, "It is Never too Late to Mend." I wrote to the manager. His answer is, "Anybody has a right to *adapt* another person's novel to the stage."

"We thank thee, law, for teaching us that fraud."

And who is this Johnstone? The same pirate that robbed the French authors and me, by the same dodge, of "Les Pauvres de Paris." The Legislator cannot say to Fraud,

(*a*) I have seen in the Era Mr. Johnstone spoken of as the author of "Never too Late to Mend" twenty times to once that I have been called its author.

thus far shalt thou swindle and no further, and here shall thy base waters be stayed — by a breakwater of sand, conventional morality.

God is too just to let a nation breed a gang of pirates only to infest an ally. The miscreants are sure to prey upon her own bowels as well.

Before this Cleptomaniacal clause came to confound virtue and vice, as well as labour and theft, the English musical composer had the inestimable advantage of getting his property defined in court by a great judge. Puny judges are always for baffling the honest intellectual labourer. Great judges, from Mansfield and Blackstone downwards, are always for protecting him. They sympathize with brains, because they have got them. In *Boosey v. D'Almaine*, a clear case of adaptation, the defence was 1st, that defendant "had not taken the whole of each air;" and 2d, that "what he had taken he had adapted to dancing only. And that some degree of art is needed for the purpose of so adapting, and that but a small part of the merit belongs to the original composer."

In this case Lord Lyndhurst delivered a famous judgment. He would not allow either that a considerable and recognizable part of a melody could be taken without piracy, or that adaptation of the composer's invention in any way was lawful. Amongst other things he laid down that "the original air requires genius for its construction; but a mere mechanic in music can make the adaptation. In conclusion he gave the adaptation swindle its coup de grâce thus: "Substantially, the piracy is where the appropriated music, though adapted to a different purpose from that of the original, may still be recognized by the ear. The adding variations makes no difference in the principle."

Thus Lord Lyndhurst interpreted the law loyally, and in so doing secured the musical composer against those who reap where they have not sown, more firmly than preceding judges had secured the literary inventor, but I think not more so than this great judge would have protected the literary inventor in *pari casu*.

Now I find that since the S. P. the English musical composer is defrauded as he never was before. And how?

always by discolouration and garbling. The thing is notorious. But agreeably to my plan of always calling a witness, I select one that must be disinterested. This is clearly a voice from the public.

"A Violinist" thus writes to the "Evening Herald": "Allow me to relieve my agony by a word of denunciation of certain publishers who obtain our money on false pretences. No sooner does a song prove itself saleable, than forthwith the melody is seized upon and published in a marvellously cheap form — till it is tried, when it is found to be very dear. We then learn that it is spurious; that the melody has been altered for the worse to save copyright penalties; that the accompaniment has been levelled to an unmeaning iteration, which the author of the original would hear with horror; and that the old tune, in fact, has been tortured to suit the cash-book of the enterprising publisher. Is there no remedy for this? For a thing to be cheap it must be true and good; pirated copyrights and 'popular' collections are generally neither. There is another nuisance about this music for the billion; much of it is so painfully small, that two people cannot by any cleverness even sing from the same piece, far less play from it. The printers of the folio music at least print as if they were not ashamed of themselves; but others, although they might sing in chorus, 'Oh, I am a pirate bold,' seem to have a horror of bold type. Deliver me from music which, with good eyesight, I can see with difficulty, and from which, when I hear, I start back with horror e'en at the sound myself hath made, thanks to the printed variations never intended by the original author."

A little poison will corrupt a well; and that proviso is moral arsenic, deadly, cumulative.

Bring your mind to bear on this! I am a father, with twelve sons, who learn their moral duties from me. I punish eleven of them with fines, prison, stripes, shame, whenever they break the eighth commandment or the golden rule. When they steal, I hit them. When they lie as well to cover it, I hit them and then kick them; and so I keep them in the straight path.

To the eleventh I say, "What in your brothers, the soldier, sailor, tinker, tailor, would be theft (an honest word of one syllable) in you is 'appropriation.' Don't be frightened, my little man; I won't hit you for appropriation; and if you lie to cover it, that is adaptation, and you shall receive more halfpence than kicks for it."

To the eleven I say, "My sons, be just to the stranger, the fatherless, and the widow; for to be unjust to them is to be

unmanly as well as wicked : and, to encourage you in these good sentiments, if you take a Frenchman's life here I'll hang you ; if you prig his watch, or forge his name, I'll imprison you ; and if you slander him substantially I'll clap a four times heavier fine on you than his own tribunals would inflict on his compatriot for the same offence."

To the writing son I say, "Don't trouble *your* head with what you find in the Old Testament about strangers, or in the New about doing to your neighbour as you would he should do unto you. Neither your brothers' morality nor their religion apply to you and your business : pillage the stranger without fear of God or man ! You can say you do it *pro bono publico*, and I'll believe it. Oh ! you may laugh ; I *will* believe it ; *c'est convenu*."

Result : I rear eleven honest sons, and one heartless, unprincipled vagabond. And that is how the state is rearing its writers with that proviso so help me God. *This twelfth son, in his intervals of legalized rascality, is teacher of morality to the family.*

Wise paterfamilias !

The *indirect* demoralization of writers by the S. P. is more subtle and difficult to explain. It operates in two ways : it saps character by undermining property, and it undermines all our property by the recoil of piracy on the nation that breeds pirates ; and it has fatally obstructed a noble international measure that, if not defiled with this fraud, would have done much to unbohemianize writers, and make honest, sober citizens of them.

There are two great classes of writers, salaried writers and independent writers. Legislation apart, the former of these is in far the best position. His remuneration is certain : it does not matter a straw to him whether he is pirated or not : his labour is as sacred as a carpenter's. Not so with the independent author, though he is the glory of letters. The work of art he produces is either mediocre, and then, unlike the salaried writer, he gets nothing for his labour ; or it is good, and in that case the pirate instantly undersells his labour by theft, and swindles him into unmerited penury. To equalize matters copyright steps in, and, by stopping piracy, raises the immortal author to the commercial level of the ephemeral writer, the independent to the level of the salaried writer. But where disloyal judges or sloppy legislators give the pirates an inch, independent writing sinks in

the market, salaried writing rises. Ephemeral rises, immortal declines.

Hence it is that in France, where neither the kidnapping swindle, nor the abridgment swindle, nor any copyright sapping swindle, is allowed, three writers are now labouring for immortality to one that works with so arduous an aim in this island. Frenchmen feel secure that the property their vast labour shall create will be safe as a rock to them and their children. And hence in America, where genius and labour are swindled by the competition of stolen genius, five great writers out of six retire from that unfair competition to salaries and ephemeral comments on passing events. Here they are safe from fraudulent competition. But this lowers the moral status of the author. Salaried writers on current events are subjected to peculiar temptations; and no class was ever yet subjected to temptation without falling, *as a class*. Besides, they are constantly obliged to say the thing they don't feel, and forbidden to say the thing they do feel. And this always lowers a man more or less.

Whatever glory or lustre shines round modern letters, whatever respect encircles the names of writers, will be found to be connected with copyright authors rather than salaried writers; yet the latter write one hundred pages to one the former produce.

See the opposite system at work under the fostering hand of power. The substance of the following facts is taken from Mr. D'Israeli's "Miscellanies of Literature":—

Henry Carey (p. 92) was a man of genius. He wrote for the theatre with immediate and lasting success. Next he handled satire; and Pope took his verses for Swift's, and Swift for Pope's. Lastly, he settled down to lyrical art: with a rare combination of two rare talents he invented immortal melodies and the immortal words to them: *inter alia*, he wrote the words and music of "Sally in our Alley," and the words and melody of the National Anthem (*a*). For this last he deserved a pension and a niche in Westminster Abbey.

In a loose age he wrote chastely (*b*). He never failed

(*a*) The bass by J. Smith. *Vide* the *Biographia Dramatica*, sub tit. "Carey."

(*b*) P. 92, col. 2. Hawkins, cited by Reed and Jones in *Biographia Dramatica*.

to hit the public. He was of his age, yet immortal. No artist can be more.

But there was no copyright in songs.

Mark the consequence of that gap in law! While the theatre and the streets rang with his lines and tunes, while the fiddlers fiddled him and were paid, and the songsters sang him and were richly paid, the genius that set all those empty music pipes a-flowing, and a million ears listening with rapture, was fleeced to the bone. All shook the fruit tree except the planter. All reaped the corn except the sower. For why? The sower was an author; an inventor. And so, in the midst of successes that enriched others and left him bare, in the midst of the poor unselfish soul's attempts to found a Charity for distressed performers (a), Nature suddenly broke down under the double agony of a heart full of wrongs and an empty belly, and the man hanged himself.

They found him cold, with skin on his bones, and a half-penny in his pocket.

Think of this when next you hear "God save the Queen!"

Now see how the system under which immortals are starved breeds the scum of the pen, and fattens them.

Those who dispensed the favours of the nation in Carey's age paid venal scribblers with all the small Government places, down to the Excise (p. 52), and some fifty thousand pounds in money to boot.

"The captain of this banditti was Arnall, a young attorney; this hireling was '*the Free Briton*,' and wrote in '*the Gazetteer*' as *Francis Walsingham*" (two good names for one weasel). "It is said he received 'above ten thousand pounds for his obscure labours,' and this patriot retired with a *pension*."

The public writings of all these great men have gone with the toadstools of the epoch; but a private letter of one of them to the new minister survives.

Dealing now with Mr. D'Israeli's text, I place cheek by jowl the two characters, the author who must have copyright, or starve, and the scribbler who can do just as well without copyright as with it, since his work runs into the port of annihilation quicker than pirate can launch praam

(a) Musical.

to attack it: the writer for a nation and mankind, and the writer for any party that can afford to buy a scribbler's soul; or, in other words, give gold for dirt. The immortal and the ephemeral.

CAREY.

"Cursed be the wretch that's bought
and sold,

And barters liberty for gold.

For he who sells his single right,

Would sell his country if he might.

"Learn, learn, ye Britons, to unite,

Leave off the old exploded bite.

Henceforth let Whig and Tory cease,

And turn all party rage to peace.

Rouse, and revive your ancient
glory,

Unite, and drive the world before
ye."

"At the time that this poet could neither walk the streets, nor be seated at the convivial board without listening to his own songs, and his own music; for in truth the whole nation was echoing his verse, and crowded theatres applauding his wit and humour. While this very man, urged by his strong humanity, founded a 'Fund for Decayed Musicians,' he was so broken-hearted, and his common comforts so utterly neglected, that in despair, not waiting for Nature to relieve him from the burden of existence, he laid violent hands on himself; and, when found dead, had only a halfpenny in his pocket. Such was the fate of the author of some of the most popular pieces in our language. He left a son who inherited his misery and a gleam of his genius."

Un bouvreuil, un corbeau,
chacun dans une cage,

GUTHRIE.

MY LORD,

In the year 1745-6, Mr. Pelham, then First Lord of the Treasury, acquainted me that it was his Majesty's pleasure I should receive, till better provided for, which never has happened, 200*l.* a year, to be paid by him and his successors in the Treasury. I was satisfied with the august name made use of, and the appointment has been regularly and quarterly paid me ever since. I have been equally punctual in doing the Government all the services that fell within my abilities, especially in those critical situations that call for unanimity in the service of the Crown.

Your Lordship may possibly now suspect that "*I am an author (a) by profession.*" You are not deceived; and will be less so, if you believe that I am disposed to serve his Majesty under your Lordship's *future patronage and protection* with greater zeal, if possible, than ever.

I have the honour to be,

My Lord, &c.,

WILLIAM GUTHRIE.

Pp. 51, 52.

(a) Here Mr. Guthrie was mistaken; he was not an author in any sense.



Habitaient le même logis ;
 L'un enchantait par son ramage
 La femme, le mari, les gens, tout le ménage ;
 L'autre les fatiguait sans cesse de ses cris :
 Il demandait du pain, du rôti, du fromage
 Qu'on se pressait de lui porter
 Afin qu'il voulût bien se taire.

Le timide bouvreuil ne faisait que chanter,
 Et ne demandait rien : aussi pour l'ordinaire
 On l'oubliait : le pauvre oiseau
 Manquait souvent de grain et d'eau.

Ceux qui louaient le plus de son chant l'harmonie
 N'auraient pas fait le moindre pas
 Pour voir si l'auge était remplie.
 Ils l'aimaient bien pourtant, mais ils n'y pensaient pas.
 Un jour on le trouve mort de faim dans sa cage.
 Ah ! quel malheur ! dit-on : las ! il chantait si bien.
 De quoi donc est-il mort ? Certes, c'est grand dommage.

Le corbeau crie encore, et ne manque de rien.

Now reverse the argument. Copyright made secure would be better worth the patient labour that alone can create it in its valuable forms. More authors would aspire to possess it : once possessed, it steadies the moral character just like any other property. The higher dignity, stability, and moral and social status of the French author is mainly owing to this, that he is commonly a proprietor. To be sure it is literary property : but that does not matter, since in France literary property is as solid and secure as house or land.

In my novel, "It is Never too Late to Mend," the thief's conversion is finally settled by his becoming a proprietor. This was true to nature, I assure you. If property will unbohemianize a thief, it will surely unbohemianize artists.

The present swindling proviso therefore affects the morals of authors, directly by temptation, and also indirectly by loosening the foundations of their property, and so keeping them Bohemians, instead of anchoring them to the state. But writers were never so powerful as now ; therefore it is good and timely statesmanship to make them as moral as we can, and let them acquire a durable property, and consequently a stake in the peace and prosperity of the nation.

B. The ladies and gentlemen that have governed nations appear to have assumed as a self-evident maxim, that it would be unsafe to let foreigners hold real property in a country.

I have little confidence in the self-evident. I would rather trust to one good tangible reason than to the light of ages : it so often turns out moonshine. How many thousand years was it self-evident that this little ball is the centre of the planetary system ? It is assumed that foreign landholders would gain too much power over the natives. Heaven

forgive me! but I suspect the natives would gain the power over them. A hostile foreigner holding largely in the funds could surely do more harm than a foreign landholder, whose English acres look to me more like hostages than weapons of war. But I confine myself to what is certain, viz., that international copyright is a property more unobjectionable than either consols or acres international, and like land gives hostages for peace, and, unlike the consols, does not encourage a hostile foreigner to raise a mercantile panic. Here then is a property which a statesman equal to the times would do well to nurse. Without this the balance of the pen tends towards war. The ephemeral writer is always inflaming the passions that end in bayonets. What does he care? he has no property in the country. Certain miscreants of the English press insulted Napoleon I. beyond bearing, and stirred up that ill blood which in time and opportunity leads to bloodshed. Their successors, following that good example, have steadily misrepresented and insulted Napoleon III., and, in his person, the great nation whose will and choice he is. Poor scribblers of an hour, incapable themselves of a noble action or a noble sentiment, they look at this man, but never see him: his fortitude shown so often in the face of death; his patience in long and varied adversity; his resolution, unbroken by defeat, prison, ridicule; his calmness and sobriety under a swift elevation, that would at once have overbalanced a mind less imperial and native to a throne; his rare accessibility, his easy affability; his ready wit, a quality that scarce exists amongst his cotemporary sovereigns; his magnanimity and tenderness towards old friends, however humble; his masterly pen; his weighty speech; the aspiring eye, that takes in France and her population, not mere classes;—all these great qualities, more than ever met before in any sovereign alive or dead, are thrown away on these his inflated, ignoble judges, who, themselves too cowardly to fight, except anonymously, *i. e.*, behind a wall, too sloppy to write as he writes, and too vain and shallow to hold their tongues, and think, as he can, have never spoken a great word, nor done a great thing, nor suffered—even their own paltry deserts, and so are no more fit to describe to the great English people such a Hero as this Napoleon III., who can fight, and write, and speak, and be silent, and look at death, and think for a great nation,

and converse with a subject, and dare, and suffer, and forgive, than a cur is to measure the moon, whose height and brightness sets him yelping at it.

Perhaps the fools think that a great sovereign is not a man, and will accept any amount of scurrility. "Que voulez-vous? — a genius judged by dunces?" Humbug! these great potentates are but men: great actors are they on the world's vast stage, and as little insensible to justice and injustice, to public applause and censure, as other actors. Napoleon III. left these shores our friend; but the bad-hearted, empty-headed, venomous part of the press has made it impossible for a prince of flesh and blood to retain any kindly feeling for us. These inksters are the enemies, not only of the country, but of the human race; they have toiled at scurrility day by day, year by year, like vendors of night soil, not like writers; and if ever the natural result of their injustice, rudeness, interfering impudence, and weary indecent insolence, should be inflicted upon mankind, I hope a just God will not let the scourge fall on their innocent victims alone, but first and heaviest upon these d—d cowardly backbiters' backs. Meantime there is no more direct way to balance these enemies of the human race and to cement peace, than by giving writers international property.

I find that of the French dramatists about sixty are publicists. Here then the S. P. has provided an element of discord, where fair dealing would have cemented our alliance. These sixty French publicists have *every right* to make war on us; for we, a nation of twenty-eight millions, have picked their small though glorious band out of all France, and made war on them under cover of a treaty.

Is it in nature that these men's hearts should not be bitter against England? Let us remove this just cause of ill blood, and substitute the peaceful effect of property, and the friendly communications and better understanding that fair commerce between writers of two countries must bring about. Rely on it, French writers will not be in a hurry to cry "Havoc," when they have property to lose in England. Amity between nations is composed of various elements, and in a world so full of firebrands why despise a single peacemaker? These gentle but subtle and penetrating influences are not so weak as coarse but feeble thinkers fancy.

Even men's bodies succumb under epidemics too subtle in their approach for any of their senses to discern, and often, when all the doctor's remedies fail, the sick man is cured by mere change of air. How much more must the minds of men be open to parallel influences! Remember, it is the heart that conceives war, and the mind that declares war: and the pens are crossed before the bayonets.

Μακάριοι οἱ ἐρηνοποιοί.

C. I come now to the last of my flimsier objections to Cleptomania in the fine arts. And here I cannot but pause and ask myself, is this really the nineteenth century, and is it left for me to tell the men of it that wholesale mutilation and destruction of works of art is a crime that belongs to barbarous epochs?

Sufficient to an age are the vices thereof.

But this proviso raises from the dead the raw brutality of Vandals, and Tartars, and monks, allies it to the finicking roguery of the modern, and launches the pair against the head and the very life of two beautiful arts. This proviso tells vain dunces and slippery traders, that, if they will so far yield to their natural itch as to garble and mutilate two noble arts, if they will but mix their own putrescences of thought and expression with the burning lines of foreign dramatists, and the immortal score of foreign composers, then they shall juggle their benefactors, they shall have all that real turtle — to turn by cleaver and self-admixture into hashed calves' head — for nothing; whereas the honest and reverent dealer, who neither swindles nor garbles, shall smart twice; once for not being a rogue, once for not being a beast; shall pay the inventor, and be undersold by the mangling and chartered thief.

In matters dramatic this system must always rob the English public of the choicest beauties of the foreign author; but I have said enough about the drama, and shall now confine myself to the other art.

Here then is music outlawed *in all her forms*. Is there any good reason for this brutal antipathy; for this arbitrary distinction enforced with so amazing a stretch of power? Is music an ignoble art? Is it a petty and unpopular art? Is it an art confessedly inferior to painting, which last is far

better protected (a) *de facto* than the writer's art. True it is that in the last century the strains of Handel inspired an English writer with an epigram conceived in the spirit of this proviso: it ends —

"Strange that such difference should be
"Twixt tweedle dum and tweedle dee."

But setting aside that tweedle dum and tweedle dee happen not to be musical notes, but silly words, who was this writer who valued himself so on having no ear, and had a pair of long ones all the time? It was Byrom. Did you ever hear of Byrom's art? No! nor will the men of the next generation ever hear of any artist who despises any fine art. They are sisters, and alike in heart though not in the face. Wherefore he who hates any one of them cannot really be in the secrets of her sister.

Parvis omnia parva. To the little great things are small.

Scribbler Byrom, or any other scribbler, can be matched on the other side of the hedge. What think you of this?

Extract from a paper called the "Musical World": —

"Be it recollected that a book is not a mere ethereal creation of the mind; though even in this capacity it has to be paid for (else how would poets, historians, essayists, and such like rabble live); but that it is printed on costly paper with costly type, and bound in a costly cover.

"Now all these items of expenditure have been defrayed by the Publisher. He has purchased the copyright of the poet, historian, essayist (whichever of the rabble-dom it may be): he has paid the bills of stationer, printer, and binder."

Now there is a musician that will never write a line of music worth a straw.

Parvis omnia parva.

(a) The author has no source of remuneration but copyright. The painter has two markets. He receives about three times as much for his picture as an author does for a copyright acquired by equal labour, and he has copyright into the bargain; nobody can steal a foreign painter's picture. French painters often paint a duplicate for the English market, which duplicate does not take half the labour or skill of the original: yet it can't be stolen, even in England.

Shakspeare, who did master a profound and difficult art, must be a better guide than scribbler Byrom, and how does he speak of the sister art of Music? He has consecrated one of his loveliest similes to paint a melody, "Oh it came o'er my ear like the sweet south, that breathes upon a bank of violet, stealing and giving odour:" again, speaking of the art itself, in terms of enthusiastic admiration, he ends by affirming that the man, whose soul does not harbour it, is morally as well as intellectually defective.

This sounds exaggerated: but he was a *bonâ fide* observer, and not to be pooh-poohed. The Adaptation proviso at all events will never explode his daring theory.

"The man that hath no music in his soul
Is fit for treasons, stratagems, and spoils.

Let no such man be trusted,"

for in the S. P. we find a soul that scorns music, and takes to treachery, stratagem, and pillage, like a duck to pond-water.

I cannot (like that legislator, or rather that earwig imposing on legislators) consent to forget what mankind owes to this noble art. We can step but a little way in History without learning (unless we are blind as well as deaf) that Music is a glorious, a salutary, a humanizing, and civilizing art.

"But the Spirit of the Lord departed from Saul, and an evil Spirit from the Lord troubled him.

"And Saul said unto his servants, Provide me now a man that can play well, and bring him unto me.

"And it came to pass, when the evil spirit from God was upon Saul, that David took an harp, and played with his hand: so Saul was refreshed, and was well, and the evil spirit departed from him."

Is not this a beneficent and potent art, which in a master hand could quell an evil spirit in single combat, and drive him out of the bosom of an autocrat?

This is not related as a miracle. The foul fiend was there by Divine permission; and the potent art, which comes from God like all our good gifts, was too strong for him, who was too strong for a king. The art was no greater then than it

is now. Whatever man has done man may do, with harp, or brush, or pen.

This art too was the nursing mother of Poetry, the highest of all arts. The verse did not create itself: it arose in all its primitive forms out of musical division. For centuries after its birth Poetry could not walk alone, either in the East or in the West. Those incomparable lyrics which are called the "Psalms of David," where description and moral teaching, piety and nature, earth and heaven, blend so sweetly, were songs, composed in happy moments of musical as well as poetic heat, by David and many other harpers: and but for music, these gems of Poetry and praise had never embellished language. And it is not too much to say, that here alone, where Poetry and music meet, is the spirit of the Old Testament as manifestly and constantly Divine as that of the New. Many forgotten harpers sang before Homer, and to their divisions we owe the majestic Hexameter. Homer, like his own Achilles, was a harper:

Αειδε τ' ἀρα κλεα ἀνδρῶν.

The Iliad was sung or chanted, and where the same words are repeated, there I take it was a sort of refrain with a more marked melody. But for music then the greatest Poem would never have been created; but for music again might well have slipped off the memory of the hearers.

Poetry came West at Music's apron string. The Arabs who brought it into Europe were songsters. The Spanish *trobadores* who caught it from them were songsters; so were the French *trouvères*, who had it from *them*; so the Dutch minstrels, and the Welsh bards.

For centuries Poetry could not walk alone, nor please by its own rhythm. And even that rhythm it owes to primæval Music.

This is but a small part of the debt mankind owe to this art, now outlawed by a caprice of demi-civilization. That debt is hundreds and thousands of years older than any claim painting can put in to our gratitude. Why pick our old benefactor out from among a hundred pettier arts, to outlaw her? Her modern feats are *they* so very contemptible? The brilliant operas, the mighty oratorios, the learned quintets, the profound symphonies, the pious masses and an-

themes, where the boys' sweet mellow voices rise so young and pure above the pealing organ, and waft the soul to Heaven; the thrilling songs that nations take to heart, and love, and sing and feel for centuries: are all these trash, and their creators to be outlawed the moment their souls are caught stepping across a frontier or a ditch?

Music is an universal language. Unlike the writer's, the composer's text can be printed or played by all the human race pure as it came from the master's mind. God has given the lovely art this world-wide advantage over the writer's, to compensate its inferiorities; a noble compensation. For thus Music mitigates the curse of Babel: a terrible curse to man. Think of the perverse madness that rejects Heaven's bounty, and says, "No! thank you: impurity suits our taste, as well as our morals," and with a low cunning of the Léonie Chereau chic (*rusée et bête*), secures an artificial impurity by tempting the illiterate brutes, who conduct speculations in the fine arts, to mutilate musical masterpieces; tempting them I say with a bait that is to their intellects and consciences what toasted cheese is to a rat. For to pay only the tributary artists and mechanics, and swindle the one imperial artist who sets all these puppets going, and whose solitary merit just equals all theirs combined, this is elixir to all two-legged pigs.

Injustice and barbarity have met together, Attila and Judas have kissed one another.

So then in the nineteenth century a law has passed enacting by equivocate, that garbled melodies, and mutilated defædated works of musical art, shall be the food of the wretched Englishman; and to this filthy hotch-potch, which the foreign composer would disown by advertisement and bellman in the streets, the rascally English cook *may forge that Master's name*. The law invites him to do it. By which forgery the wretched English public is duped into paying thousands and thousands of pounds for a vile hotch-potch. Alas! is not our bodily food adulterated enough? Must the soul's food be adulterated too?

The fatal result of Attila cum Judas legislation would be uniform: the works of great men have never been tampered with by little men without being defiled. In art the less never yet comprehended the greater. The smaller thinker

therefore is sure to spoil the greater, where both are of a trade. Besides, in art the *expression* of thought is half the battle: now immortal music and immortal verse have this quality in common, there is not an unnecessary note in the one nor a superfluous word in the other. The immortal writer is a man, or woman, who crams syllables, or notes, with sense; the ephemeral is one who overlays sense with notes or syllables. And these opposite instincts and habits in the two artists are *invincible*. The ephemeral is in the world to amplify; the immortal to condense. The ephemeral is a bladder; the immortal a silver bullet. Ephemeral is a pound of flesh to an ounce of salt, and time flyblows him in a summer; immortal is a pound of flesh to two pounds of salt, and sweet for ages. Therefore an ephemeral can no more garble an immortal composer to the tune of S. P., without spoiling him, than pitch can mix with snow and spare its whiteness. He will still dilute the immortal down to his own sloppy, expletive loving, cadence loving, feebleness, besides vulgarizing and defiling his leading ideas.

Look at the Masterpieces of painting that have been restored by inferior artists. Has any one of them been improved to console the world for the million murders done by those presumptuous ephemerals on immortals?

Look at the long chain of Shakspeare's adapters and improvers. Read their cock-a-doodle prologues, see their self-reverence, their ill-concealed disdain of the man whose brains they were stealing: what has been the ultimate fate of all these self-satisfied mutilators? Ephemeral musicians have adapted and altered Handel too, and in every case obscured his original brightness for a time: but the immortal text survives and revives to expose their brutal vanity and ignorance, and the loss they inflicted on their coteremporary public.

An immortal work of art adapted and altered by an ephemeral is like an opening rose crushed in a hot coalheaver's hand. Therefore, if we steal at all from the foreign Master, we ought to steal honestly, and sensibly, and not by halves. Why not rise to the intellectual level of the Newgate thief? That appropriator has an excuse: he gets the thing he sins for. We don't. Shall there be economy of candles' ends, and none of crime? If we are to go to Hell for a song, hang it all let us have the *notes* of the song.

Now comes a strange anomaly, and an instructive one. This sentence, condemning two great arts to the rack and to the mangle, was not signed by the Huns and Vandals, nor by the Goths and the Visigoths, but by the Peers and Commons of England.

Of these gentlemen nine out of ten were educated at Cambridge or Oxford; and there nothing was hammered harder into their intelligence than the inestimable value of a great artist's every syllable; there, in rich libraries, or reclined on classic turf, such as Athens never dreamed of, they saw and compared the learned labours of great scholars for three hundred years past — a mass of industry, enthusiasm, and sagacity quite unparalleled; and devoted to what? To recover the pure text, the minutest meaning, the *ipsisima verba*, of those immortal writers. Here must have reached most of them the sigh of the great Bentley over the text of so small an author as Velleius Paterculus, of whom he says that but a single cotemporary MS. exists, and, therefore, deprived of the light of collation, "the text must remain a mass of errors to the end of time." Here, too, they heard scorn heaped upon the Tartars who mutilated the Parthenon, and on the mediæval monks who disfigured Greek MSS. with their ephemeral twaddle.

Their academic education completed, they cannot have mixed much in society, nor dipped at all into English learning, without finding out that the text of Shakspeare is infinitely more corrupt than the surviving text of any Greek or Latin author, or indeed of any famous writer of any age, except Mahomet; and that this is matter of profound regret among civilized Englishmen: and that vast learning and sagacity have been employed to recover his lines, with very little success: and that, disfigured not by subtraction only but by addition, the wrecks of his immortal verse overlaid with the wretched gag of two generations of actors, are, and must remain, "a mass of errors to the end of time." They must have heard too the groans of artists and critics over the great Venetian pictures, and other masterpieces, robbed of their native lustre by miserable restorers, ephemerals, who revering themselves as all ephemerals do, and in the shallow recesses of their hearts clandestinely underrating immortals as all ephemerals do, thought they could not alter the miracles of art without improving them, as now thinks the modern

adapter, and as coming dunces will think, and say, and do, if not hindered by law.

The same situation comes round in the whirligig of time, and, with all this accumulated wisdom in their heads, these highly-educated men do, in their generation, the work of the barbarians they abhor in another age, and of the blind devastating cur puppies they scorn in a third. To raw legislators history is a dead letter. There are accidental and superficial distinctions that confuse sloppy minds; and there are real distinctions which sense and science approve: now, if you bring your mind to bear, you will see that between those enormities so universally abhorred, and this miserable piece of Cleptomania, the distinctions are all accidental and apparent; the similarity is essential, substantial, and to the core.

The great art of mutilation has its physical laws like any other art, and its processes must vary with the nature of the masterpiece earth is to be robbed of. The temple smasher does n't do his butchery with the pen; but why? only because the pickaxe is the fitter tool. The oratorio mangler, opera garbler, and song soiler does not his butcheries with the pickaxe; but why? because for that the pen is the more effective tool. The picture defiler does his "mortal murders" with the brush. Why? because with this alone could he do the trick, and escape fine or imprisonment. But all these acts are at bottom the same, and spring from an irreverent heart, and a mind with no lively sense of beauty in art, nor of justice in morals. In fact, prejudice apart, the mildest form of mutilation is the utter barbarian's. Many a column is gone from the Parthenon; but the gaps are not filled with Turk styes; so the great and pure design survives, and still hovers over the pillars that stand. But the adapting barbarian, like the old picture restorers, not only strikes out the native beauties, but sticks in his own trash, and so effaces the design; for in art the dirt and gold that man has once joined together, no mental alchemy can put asunder.

When an immortal has been adapted by an ephemeral, criticism may safely be confined to a single word — a word often uttered in England over a quadruped, the most intelligent and high-spirited in the country, who ends, adapted, *i. e.*, mangled, by his intellectual inferiors, "et ne dit mot."

Who-op !!

Thus then we have lived to see a system of mutilation established by law, which, the act of an enlightened age, leaves the Tartars that wrecked the Grecian temples, the Puritans that mutilated English cathedrals, and monks, and rats, and picture slayers, far, far behind.

O miseris hominum menteis, O pectora cæca !

Is no lesson of wisdom to be learned from this revival of pure vandalism in the year of our Lord A. D. 1851 ?

At least let us learn this much, that a greater effort ought to be made to realize our knowledge. Knowledge is but knowledge's fleeting shadow unless realized. It is truly pitiable to see how little practical wisdom the human race reaps from its own history. One reason is that men, though they babble about the immortality of the soul, don't half believe in it, and never let themselves *feel* it in dealing with earthly topics. And therefore their minds get bandaged by dates and epochs ; and they have eyes, yet see not. An old situation, practice, or principle pops up again after a few hundred years ; but they cannot recognize it (and profit by its past history), because, forsooth its date is changed. The bare years seem somehow to come between the object and their judgment like furlongs of fog. This could never be if we were not sham immortals. For to a true immortal what are the petty tracts of time human history deals with, that they should have power to obscure the essential character of any transaction that comes round to us in so small a whirligig ?

The legislator at least should strive to rise above this pitiable weakness. Like the epic poet, he is either an immortal, or an imposter. Therefore if he catches his immortal part feeling like a daisy, and disposed to confound the immortal arts with dandelions, he should go to the Bible, or, if he has outgrown the apron-strings of omniscience, to cotemporary science, to cure himself. Let geology precede legislation. A mighty little red sandstone will rub out his notion that it is a long time since Miriam struck the lyre, and David played a royal fiend away, and Tyrtæus sang a defeated tribe to victory, and the Turks and others mangled marble porticoes, pictures, and MSS., and some hog turned "Aileen aroon" into a thing called "Robin Adair," etc., etc.

Now, then, what is the verdict on this count? Are we to be Tartars, Huns, Goths, Visigoths, Vandals, and idiots and brutes of a past age: or men of our own century? If the latter, we must not leave a proviso standing that reduces the wholesale mutilation of masterpieces of art to a system, and gives it the name, and the force, and the dignity of law.

I objected on the part of the public to the half measure of stealing a song or opera, yet not getting the notes. The foreign composer gains nothing by this half measure, and we lose much. It would be better to go the whole hog. But the best of all would be to go the whole Christian.

Hebrews, chap. xiii.

15 and 16 Vict., chap. 12.

"Be not forgetful to entertain strangers; for thereby some have entertained angels unawares."

Who is that?

A stranger.

Eave arf a brick at un.

Here we have the two theories. Let us skim a fact or two just to test them. The Athenians sent Tyrtaeus by way of a practical joke: he was a little hump-backed songster. But the simpler tribe, that, advised by the oracle, had sent to Athens for a leader, thought more of his art than his person, and entertained him. They conquered their enemies under the leader Athens flung them in contempt.

The French people entertained Gluck. They did not pirate him, nor heave arf a Newgate brick at him. He wrote at first for Italian words. A notion prevailed in France that French words were not fit for music. The evidence of a few centuries contradicted this theory; but who takes evidence in such matters? The notion stood firm as a rock, rooted and grounded in Cephalomancy.

Gluck studied the music of Corneille and Racine, and soon found he could wed immortal strains to their immortal lines. He did so, and with complete success. Thus a stranger rewarded this generous nation. A man born in Bohemia, but treated like a brother in Paris, turned more French than the French of his day, and showed them the powers of a language which was not his but theirs. Thus was French opera founded by a stranger.

Handel was entertained in England. He was not pirated nor swindled for being a foreigner. To-day he would be,

and driven out of the country in a year or two. He produced fifteen mediocre pieces before he got as high as "Acis and Galatea." So you see, with a little rascality, we could easily have lost all his oratorios, which were the fruit of his mature and long-encouraged labours. In time he grew to the nation that treated him like her son: he studied her language profoundly and lovingly as Gluck did French, and no composer has fitted music so well to English syllables as has this German. He lived and died amongst us, and was buried in Westminster Abbey. He bequeathed his vast compositions to the world; but impregnated with the genius of the English language, and echoing the simplicity and untheatrical character of English piety, they must always be a richer heaven to the English soul than to any other.

Here then we entertained an angel unawares.

Handel, not being swindled, died worth 20,000*l.*, of which he left 19,000*l.* to his relations and 1,000*l.* to our fund for decayed musicians. But for many years before his death he gave always a gratuitous performance of the "Messiah" for the benefit of the Foundling Hospital. Seven thousand pounds did those unfortunates receive from this one work of art and from the foreign master's hands. Since his decease it is not by thousands, but by tens of thousands, that we must compute the money gathered for the English poor from this dead master's works.

Was not he an angel, this foreigner, so tuneful, so charitable, so immortal, who being dead yet liveth, since his works still feed the hungry, clothe the naked, and lift the soul to heaven? What did we ever do *cleverer* than not pirating this stranger? Would it have been better to heave half a swindle at his head? What is the verdict on this? Is St. Paul the best guide, or are St. Attila and St. Iscariot the best guides in legislating for the fine arts?

CAP. XX.

I RETURN to the place I set out from. The adaptation proviso, being a contrivance, under cover of a professedly equal treaty, to exclude the main intellectual export of France from the benefit of that treaty, is unjust, and unchristian : and the double-faced artifice by which it was done without alarming the French plenipotentiaries, was Punic, not English. The question now is, who is to have the honour of knocking this Punism on the head. My business is to unearth such polecats as this : but there I must stop, not being in Parliament. Other honest men must do the rest. It is time it was done.

It is the opinion in France as well as England, and has often been publicly stated, that our national honour is here stained. Can this be doubted? Well, we have in this country a body of gentlemen, whom, even were I not an Englishman, I should pick out of the whole world as the men fittest to decide a question of honour and good faith, personal or national. Need I say I mean the House of Peers? In a private matter it would be highly improper to intrude on the notice of that august assembly. But the French dramatic poets and writers generally stand in this age at the head of the human intellect, and even the English House of Peers may without impropriety be appealed to, where the just interest of so illustrious a body and the honour of the British name are both at stake. And therefore, my Lords, I do solemnly appeal to you to decide this question, on the sole ground of honour and nobility, of which sentiments here in England you are the repositories and the judges. And if I do not take the usual course, and solicit you to this effect in MS., to be received with your invariable courtesy, and assigned to an honourable resting-place, it is that I think those, whose interests I have the honour to represent, are more likely to attract your Lordship's notice by flying about the world appealing to you in two or three printed languages, than by the mute eloquence of a solitary parchment reposing upon etiquette in a pigeon-hole.

If in either house of Parliament there should be a single member, whom any work of mine may have inspired with some little confidence in me, I beg to push that influence as far as ever it will go; and I invite him earnestly to act upon the conclusions of this book. Time will confirm them all: and even now he will find little difficulty, meet little opposition, in so great a work. His main difficulty will be to get a house. Great, quiet, and immortal things are easily done in legislative assemblies: it is little temporary noisy nothings that are fought over tooth and nail. Parliamentary *battles* are like those in the Rape of the Lock; when they are not about a hair, they are about the deuce of clubs; and vice versâ. The noble, or honourable friend I have perhaps too hastily imagined, will find it worth his while to ponder my words ere it be too late, and that is asked for by France which might now with so much more grace be spontaneously given her from love of justice.

Here then on this page true honour goes a begging.

The arts, immortal themselves, confer immortal fame or infamy, on friend and foe. Parties come, and parties go, but these flow on forever; and though no greasy palms ever applaud on the instant their champion, to the bray of tin trumpets and the flare of gas, a mild but lasting light, still brightening as civilization marches on, hovers around his living head, and gilds his memory when dead.

Here I say true glory goes a begging; for here is justice to be done, and here is the tarnished escutcheon of a great nation to be brightened, and two noble arts to be saved from Huns, and Vandals, and death. It is as if I should say, here, Sir, or, here, my Lord, take this diamond; it has cost me many a good head-ache, many a good heart-ache, and many a good pound (*a*): it shall cost you nothing but the trouble of putting out your hand and fixing it in your coronet. There it will not dazzle the immediate bystanders as many a paste gem does: but it has a virtue, rare among parliamentary brilliants, ay, rare among the jewels of earth: it will cast its modest lustre a long, long way into space and time: into a noble nation where, but for it, you might live and die unknown; and into unborn ages.

(*a*) Besides my losses at Croydon, it costs me at least 1,000*l.* to write such a book as this, the sale of which will not pay its expenses. Yet with the same labour I could have produced three volumes of lucrative fibs.

APPENDIX.

P. 12. *It is saleable per se, etc.*

The first recorded sale of intellectual property was by Homer, who delivered the Iliad at banquets and festivals, and so made his bread, receiving probably, in a time so rude, not money, but food and presents. The mediæval minstrels were equally independent of actors and publishers: so was Boccacio; so was Jean Froissart; so, in point of fact, is Mr. Dickens, who can read his own lines to crowded and paying audiences. Were he to deliver a new work from MS., instead of old printed ones, would the attraction diminish — or increase?

Lord Mansfield saw this clearly, and tried hard to make petty lawyers and loose thinkers comprehend it. *Millar v. Taylor*, 4 Burroughs. Nor will any man understand the moral right, on which copyright and stage right are based, if he begins by being wiser than Lord Mansfield in this. Some persons, in whom the senses tyrannize over the understanding, have got to argue as if the intellectual production were but an effluvia from the paper, print, and binding. They forget it was created before these, and could have been communicated to other minds without the help of these, whereas these without it what ideas can they communicate?

The gas and the inflated balloon seem one to a baby; yet they are what they were before they came together, distinct properties; and so are the intellectual production, and the volume, that seems one with it to a judicial baby, but is only attached to it. The same applies to the theatrical adjunct. I can write a play, and read it to the public for money, or I can sell to actors the right to deliver it for sale. In the first case I am entitled to all the profits, for I do two distinct acts of labour; the long and weighty labour of the author, and the trivial but oft repeated labour of the speaker. In the second case, I shirk the latter labour, and consequently lose all claim to its profits, but for the superior labour I ought to be paid by those who reap my fruits as

well as their own. This claim in the case of the foreign dramatist has to be subdivided. The translator or adapter is his collaborateur, and entitled to share with him. This is justice, and some day will be law.

1. Letter from the French Consul, enclosing No. 2.

Londres, le 13 Août, 1857.

Consulat Général de France en
Angleterre.

MONSIEUR,

Je m'étais empressé de communiquer à S. E. M. le Ministre des Affaires Etrangères les observations que vous m'avez fait l'honneur de me présenter, il y a quelque temps déjà, au sujet de la poursuite que vous dirigez, en Angleterre, contre un soi-disant imitateur du drame de MM. Brisebarre et Nus, *Les Pauvres de Paris*.

Transmises par le Comte Walewski à la Commission des Auteurs et Compositeurs Dramatiques, ces observations ont trouvé dans cette société l'accueil le plus favorable, et je suis heureux de pouvoir vous transmettre ci-joint copie d'une pièce, par laquelle le comité déclare prendre à sa charge les frais du procès excédant la somme de mille francs que vous avez offerte comme contribution personnelle dans cette affaire.

Vous remarquerez, Monsieur, que cette déclaration est adressée au Ministre de l'Intérieur dans les attributions duquel se trouve placée la Société des Auteurs Dramatiques.

Je vous prie de m'accuser réception de cette communication.

Recevez, Monsieur, l'assurance de ma considération très-distinguée.

GAILLARD DE FERRY.

Monsieur Charles Reade.

2. Copy of a Document addressed to the Minister of the Interior by the Committee of French Dramatic Authors.

Paris, ce 2 Août, 1857.

Commission des Auteurs et
Compositeurs Dramatiques.

A son Excellence Monsieur le Ministre de l'Intérieur.

MONSIEUR LE MINISTRE,

Les membres composant la Commission des Auteurs et Compositeurs Dramatiques ont l'honneur d'informer votre excellence de la décision qu'ils ont prise relativement au procès intenté par Monsieur Charles Reade, devant la justice anglaise, à un traducteur qui se prétend imitateur de bonne foi du drame de Messieurs Brisebarre et Nus, intitulé *Les Pauvres de Paris*.

La Commission estimant que dans le traité international, destiné à protéger les droits des auteurs français en Angleterre, la réserve faite en faveur des soi-disants imitations de bonne foi n'est qu'une voie ouverte au plagiat à peine déguisé, et que, par conséquent, la loyale intention des deux gouvernements de sauvegarder les droits sacrés de la propriété littéraire sera continuellement faussée tant que certains traducteurs anglais pourront invoquer le droit d'appropriation ou d'imitation de bonne foi de nos œuvres dramatiques,

De plus, la Commission, convaincue qu'il y a nécessité pour les intérêts généraux qu'elle représente à ce qu'un arrêt de justice démontre jusqu'à quel point le traité international est rendu inefficace par suite de cette réserve des imitations de bonne foi, et quel abus la fraude peut faire de ce mode d'emprunt littéraire non rigoureusement défini,

Declare —

Que l'action intentée, en Angleterre, par Mr. Charles Reade, contre le traducteur du drame qui a pour titre : *Les Pauvres de Paris*, touche à l'intérêt général des membres de la Société des Auteurs et Compositeurs Dramatiques,

Decide —

Qu'elle prend à la charge de sa caisse les frais du procès excédants la somme de MILLE francs, offerte par Mr. Charles Reade comme contribution personnelle dans cette affaire.

Nous sommes avec respect, &c.,

Pour les membres de la Commission,

(Signé)

MICHEL MASSON, Vice-Président.

3. Letter from the President of the Committee to Mr. Reade.

Paris, 6 Août, 1857.

MON CHER READE,

Votre courageuse attitude dans le procès qui va s'engager a provoqué de la part de la Commission des Auteurs et Compositeurs Dramatiques une vive reconnaissance. Si la cause de la littérature doit triompher, il faut que le triomphe soit dû aux littérateurs eux-mêmes, invoquant leur droit et faisant appel à la loyauté de la nation anglaise.

Aussi la Commission, dont j'ai l'honneur d'être Président, a-t-elle décidé que les frais du procès seraient supportés par les auteurs français ; et la part que vous annoncez vouloir prendre dans les dépenses de cette affaire, sera un titre nouveau à l'estime et à la gratitude de vos confrères d'outre-manche.

Nous acceptons, en conséquence, et votre tribut et votre concours. Soyez assuré d'être suivi sur le terrain par toutes nos sympathies, et surtout par notre coopération énergique ; car, je le répète, vous soutenez en cette circonstance la cause de la

littérature glorieuse et honnête. Votre exemple entrainera certainement l'approbation de vos concitoyens.

Recevez, mon cher Reade, l'assurance de mes sentiments particulièrement distingués et affectueux.

A. MAQUET.

Perpetual Attacks on my own Copyrights. — P. 122.

Besides all the battles recorded in this book, I have had to file an injunction in Ireland.

One fine day a young gentleman, a perfect stranger to me, wrote to let me know that the editor of a newspaper in Dublin was printing and selling "It is Never too Late to Mend," in his columns under the title of "Susan Merton."

Some people write notes to pirates, civilly remonstrating. I do not; nor to a burglar, nor to a pickpocket. If I had taken this course the attack on my property would have been public, the cure private, and I should have been swindled from John-o'-Groats to Plymouth Sound. I filed a bill against Mr. ——. I forget his name now: it was not "legion," though, as it ought to have been. There was no legal defence, as you may suppose; and my Lord Chancellor put his stopper on that bottle. The moral defence was that he had found the story in the "New York Despatch," published as an American story, and headed "Susan Merton, a Tale of the Heart;" with no author's name: *which was true*. That twenty or thirty people did not on the appearance of this story in his columns tell the Dublin editor he was pirating one of the best known novels of the day, is what I profoundly disbelieve. At the same time I beg to draw the attention of the American press. Why disguise an act of piracy which the law allows? Why rob my work of its ideaed title, and substitute an undeared title? I am sure such of my good friends over there as do me the honour to accept my talent gratis, cannot wish to get *me pillaged in my native country*.

In the year 1853, I produced a drama called "Gold" at Drury Lane, which theatre it saved from closing. It did not, however, run a hundred nights, and therefore I took the characters and some of the scenes, and incorporated them into a novel — "It is Never too Late to Mend." Here then by two honest acts of labour I possess (in theory of law) two properties: and in France I certainly should possess two properties. But Mr. Conquest, of the Grecian theatre, kidnaps my novel and dramatizes it, and takes indifferently the original scenes of the novel and those which first saw the light as dramatic property. Thus he robs me of one property entirely (the play), damages another, and deprives me of the right to dramatize my story: my two properties are reduced to half one. I have served him with a writ, and shall proceed to trial; but not with confidence as I should if the matter was to

be tried before a French or Prussian tribunal. For, in a free country, public opinion not only dictates laws, but penetrates the courts of law, and being inhaled, often unconsciously, by judge and jury, enforces a law or deadens it *ad libitum*. Now in England public opinion is all for pillaging authors and murdering their families. The Anglo-Saxon creed with respect to us has two articles.

1. Thou shalt not steal, except from an author.
2. Whoso swindleth an author doeth the public service.

The first is all the Old Testament, and the second all the New Testament, that ever comes *our way*.

Let me hope it is want of intelligence, not deliberate heartlessness. When an author's house is broken into, or his pocket picked, he does not complain. He shares these wrongs with all his countrymen. Mr. Albert Smith has had his house three times broken into; twice robbed clean. He has mentioned it publicly, but with perfect good temper. Moreover this sort of fraud is a mere stroke with a feather, compared with piracy. The burglar takes our luxuries and our loose cash. But the pirate swindles us out of our capital. What would you feel if you were liable every hour to be robbed of your consols (not the interest but the stock) and Breadalbaned out of your family acres? Yet that is the exact position of an author in England; not for want of good laws, but of manly and Christian feeling in the population towards those, who, deriving most of their power from the width of their sympathies with their fellow-creatures, are the last men that ought to be outlawed from human sympathy. Let me add that the precarious character of literary property is in *part* owing to the rascality of those writers who earwigged the ministry in 1851. Our villainy towards our French brethren has recoiled on our own property, and checked its progress towards stability. Roguery is a bad gun: it seldom hits the object, and always kicks the gunner.

The Abridgment Swindle.

The stupid blunders that combined to lead English judges to this virtual repeal of the copyright acts are too numerous to be handled here. The two main blunders may be thus stated:—
1st. They entirely ignored the plaintiff and his rights, and treated the case as *Rex v. Abridger*; consequently they accepted reasons, which were a fair defence to an indictment by the Crown, but valueless in a suit for property between *two* citizens, with rights to be balanced.

2. These gentlemen had been taught that labour bestowed upon open materials creates copyright; in other words, labour, whenever it does not clash with a title, creates a title. Hence the don-

keys inferred that when it clashes with a title, it creates a just property all the same. But that distinction happens to make all the difference between copyright and piracy.

It is only because the understandings of little men are low, sordid, and sensual, that these stupid blunders are ever made. Transfer the matter to anything the poor devils can see, hear, smell, handle, and the fallacy evaporates of itself. Suppose a piece of waste moor, and that all the natives of a district have (no matter how) an equal right to do what they like with it. I dig an acre; I sow wheat; I reap it and thrash it, and garner the grain. A lazy hound, who had the same right to make grain his own, by tilling the common soil, prefers to steal my grain out of my granary. Here you have the Dublin editor and all direct pirates. Another pirate less lazy than the mere snatcher, but much lazier than the honest cultivator, goes into my field and reaps the corn he has not sown. Reaping is labour, and hard labour too. Here you have the abridger, adapter, *et id genus omne*. Does that act of labour give him a right to rob me of the fruits of my far greater labour? Those precious judges decided that it does. Nor is it any answer here to urge the natural flaw of copy-right as property, viz., that actual separation does not take place as in case of material theft. This is a sound and just defence to moderate plagiarism, but not to piracy that injures or supersedes the original work; for here actual separation does take place. We will give these old gentlemen every chance. We will take the very property they were dealing with in *Strahan v. Newbery*, viz., Captain Cook's voyages.

Captain Cook sailed twice round the world, and made great discoveries. But in his next voyage he was murdered by some savage islanders, and left his log and his MSS. In that he was a sailor his nation honoured, and wept him; in that he was an author his nation rifled his dead body, and swindled his widow and children: *c'est de rigueur*. The voyages pirated by Newbery were Cook's voyages.

Compare now the acts of labour that created that copyright, with the one paltry act of labour employed to steal it. The gallant seaman did not skim his facts off another man's milk. He wrought for them soul and body. He encountered wet, cold, tempests, dangers innumerable, to write this book. He gathered every page of it with his life in his hand. A miserable badger that never stirred a mile from his hole sits down by the fireside, and with a few days' easy work shortens and condenses the bare pages that years' labour, fortitude, courage, and suffering, had produced, and undersells them hopelessly. Any judge worthy to sit, except in a pillory, would have seen the lion's blood, and sweat, and life on those sacred pages, and would have revolted against the badger and his barefaced fraud. But no, these judges could only sympathize with the brainless pilfering vermin

that prey on brave and honest authors. The pseudo labour of the badger stealing by the fireside the travelled lion's mighty labour, and his sweat, and his blood, that they could see and reverence; it reminded them of a pettifogger. The lion and his labour, and his rights, were too big for these puny judges to see at all.

In their hands the balance had but one scale, and into it they put the dirt, and flung the gold out of court. The French law is just the same at bottom as the English law; only the French law has been interpreted (in respect of abridgments) by judges worthy of the name; ours by judges with the heart of a polecat and the head of an ass.

The following is the law of the French courts:—

Les abrégés doivent être proscrits par les tribunaux avec d'autant plus de sévérité, qu'ils établissent une concurrence plus redoutable pour l'auteur, puisqu'ils reproduisent la partie essentielle de son œuvre, et qu'ils se vendent à meilleur marché. *Roret v. Arnaud*. Etienne le Blanc—De la Propriété Littéraire, p. 176.

I have been thus severe upon a judgment delivered many years ago, because no living judge has as yet been lawyer enough nor man enough to disown in *his place* that filthy doctrine, which reflects so much shame on the English bench; and till it is by them publicly disowned, or by law repealed, *copyright has no real existence in England*. Property is not property so long as it lies at the mercy of any kind, class, or description, of thief. For piracy is supple as an eel, and can and will adapt itself to any mode of working which disloyal or feeble tribunals select to favour. Mr. Curtis has devoted several valuable pages to exposure of the fallacies in those unjust judgments.—See Curtis on Copyright, 269–281.

The reasons why a piratical abridgment always supersedes and destroys the honest book are these. A book is not sold, like a picture, in consequence of inspection. The leaves are kept uncut, in order that it may be bought like a pig in a poke, *i. e.*, by advertisement. If the piratical sale is not checked, the abridger advertises thus: "All that is really valuable in this learned and useful work is here presented to the public at one-third the cost of the original book." Whether this should be true or false matters little. It is *irresistible*. The public knows the value of a shilling, and cannot possibly know the value of a book it has not read; wherefore it will always cease to buy the original in face of such an advertisement.

The circumstances that enable the "abridging swindler" to sell so cheap, yet make a profit, are two. 1. The original author's labour is upon the average not less than forty times as long as the abridger's, and often combined with collateral expenses, such as purchase of books, or money laid out on actual

travel, &c. On this item therefore the swindler can undersell his victim four thousand per cent. 2. Printing and paper are paid for by quantity. An abridged volume of 150 pages can always be sold at a profit for less than half the original of 350 pages. Add to this the above saving in author's labour, and the swindle can be sold for one-third the fair price of the honest production, and by means of its merit, reputation, and title; thus the eagle was shot with an arrow feathered from his own bosom. On this, the worst, the impudentest, and the most inevitably fatal of all the swindles with which mankind reward their great benefactor, the honest, laborious author, the French judges have decided white, and the English judges black. And why, because the French judges were jurists, and the English judges attorneys in long wigs. The French judges were *impartial*, and so to them one man's legal property was as sacred as another's. The English judges were *partial*, and drew an arbitrary distinction false in law between an author's "personal property" and a carpenter's, making the former *infinitely* less secure than the latter. Finally the French judges were loyal and independent, and the mouthpieces of law: the English judges evaded the law's declared intention, and *trickled to opinion as basely as Neapolitan judges truckle to power*. They saw justice on one side and popularity on the other; and chose the latter. It is a common preference where the heart is small and the head is not big: but the judgment-seat is not the place for it. There a man should judge property or life without respect of persons, or else be flayed alive, and the seat leathered with him for a better man to sit on.

The worst of it is that in England injustice done in open court to unpopular proprietors (and an author though a popular man is the most unpopular of all proprietors) is everlasting. It survives its cause. Probably there is not a living judge who does not in his heart regard "the abridgment swindle" as I do, indignation apart. It does not follow that, if you sued to-morrow a cunning piratical abridger of your labours, the present judges would have the courage to do you justice. The courts are governed (and for very good reasons) by precedent; and our courts look at the number of precedents, not at their justice nor injustice. You would find that at Westminster a dead cur or two can control five living lions. In copyright especially any author-swindling shuffler that happened to die in horse-hair forty years ago, can put a bony hand up out of the grave, and still baffle law, and corrupt justice, upon earth.

Wherefore until a fresh Act of Parliament shall be passed to raise the English courts to the moral and intellectual level of the French courts in respect of "the abridgment swindle," and "the kidnapping swindle," &c., the French author remains a citizen, the English author a demi-outlaw; the French author a proprietor, and honoured and elevated by that unbohemianizing pos-
 ses-

sion: the English author a Bohemian malgré lui, discouraged from honest labour by the insecurity of his production, and stimulated to dishonourable courses by the sense of injustice, a temptation of terrible force. *For, in an English author, a fraud on his fellow-citizens is an act of retribution.* The low moral and social status of the English professional author, as compared with the French, are entirely owing to two causes, the comparative insecurity of literary property, and the mania for anonymous writing. But these causes co-operate: for the insecurity of property leads men to write for salaries instead of for property; and the salaried writer, having no personal interest in literary property, defends a swindled shoemaker with zeal, to please the public, but looks on with icy apathy when an author is pillaged.

Sloppy Translation. — P. 115.

It would not be difficult to produce a thousand instances in which bad translators have adapted instead of translated. In fact what the adapter now claims as a merit is the translator's besetting sin.

Monsieur Bignan, writing in the *Journal des Débats*, June 21, 1859, remarks thus on the old translators: "On avait horreur du mot propre; et l'enluminure moderne dénaturait à plaisir le coloris antique: c'était un anachronisme presque continu d'expression et des images."

Is there a single scholar whose observation does not bear out the above summary?

Collaborateurs in England from 1580 — 1620, when the Market was healthy as it now is in France.

Dido — Marlow and Nash. *Maiden's Holyday* — Marlow and Day. *Arcadian Virgin* — Chettle and Haughton. *Black Batman of the North* — Chettle, Wilson, Drayton, and Dekker. *Blind Beggar of Bethnal Green* — Chettle and Day. *Fall of Cæsar* — Monday, Drayton, Webster, and Middleton. *Two Noble Kinsmen* — Shakspeare and Fletcher. *Henry VI.* — Shakspeare and another. *Hamlet* — Shakspeare and another. *Arden of Feverisham* — Another and Shakspeare. *Titus Andronicus* — Another and Shakspeare. *Pericles* — Another and Shakspeare. *Troilus and Cressida* — Shakspeare and others. *Christmas comes but once a Year* — Heywood, Dekker, John Webster, and Chettle. *Earl Godwin* — Drayton, Dekker, Wilson, and Chettle. *Friar Rush and the Proud Woman of Antwerp* — Haughton and Day. *Hot Anger soon cold* — Ben Jonson, Chettle, and Porter. *Sephah* — Monday and Dekker. *King Lear* — Shakspeare and another. *The Widow* — Ben Jonson, Fletcher, and Middleton. *Jeweller of Amsterdam* — Fletcher, Massenger, and Field. *Virgin Martyr* —

Massenger and Dekker. *Fatal Dowry*—Massenger and Field. *Love parts Friendship*—Smith and Chettle. *Madman's Morris*—Wilson, Dekker, and Drayton. *Wyat's History*—Webster and Dekker. *Looking-glass for London and England*—Lodge and Robert Greene. *Sir John Oldcastle* (falsely attributed to Shakspeare)—Monday, Drayton, Wilson, and Hathway. *Orphan's Tragedy*—Day, Haughton, and Chettle. *The Woman Hater, the Elder Brother, etc. etc.*, in all fifty-three plays—printed Beaumont and Fletcher. Of these plays, all printed under those two names, forty at least were written by the two authors, the rest by Fletcher alone, or with other collaborateurs. *Owen Tudor*—Drayton, Monday, Hathway, and Wilson. *Beech's tragedy*—Day and Haughton. *The famous Wars of Henry 1st*—Drayton, Dekker, and Chettle. *Annibal and Scipio*—Hathway and Rankins. *Civil Wars in France*—Drayton and Dekker. *Mother Redcap*—Monday and Drayton. *The Black Dog of Newgate*—Hathway, Day, and Smith. *Henry V.*—Shakspeare and another. *Taming of a Shrew*—Shakspeare and another. *Troilus and Cressida*—Dekker and Chettle. In all probability the same play that was afterwards retouched by Shakspeare. *Unfortunate General*—Hathway, Smith, and Day. *Valentine and Orson*—Monday and Hathway. *Two Harpies*—Webster, Middleton, Drayton, and Dekker. *Cardinal Wolsey*—Chettle, Monday, and Drayton. *The Witch of Edmonton*—Forde, Rowley, and Dekker. *The Sun's Darling*—Forde and Dekker. *Fortune by Land and Sea*—Heywood and Rowley. *Laws of Nature*—Lodge and Greene. *Worse afraid than hurt*—Drayton and Dekker. *Strange News out of Poland*—Pett and Haughton. *The History of Cardenio* is ascribed by Reed and Jones to Shakspeare and Fletcher, I know not on what authority. *Spanish Moor's Tragedy*—Haughton, Day, and Dekker. *Jane Shore* (or a play containing this character)—Chettle and Day. *Six Yeomen of the West*—Haughton, Hathway, and Smith. *Stepmother's Tragedy*—Dekker and Chettle. *Westward Ho*—Webster and Dekker. *Guy of Warwick*—Webster and Day. *Travels of Three English Brothers*—Rowley, Day, and Wilkins. *Lancashire Witches*—Heywood and Brome. *The Life and Death of Sir Martin Skink*—Heywood and Brome. *The Apprentices' Prize*—Heywood and Brome. *Too Good to be true*—Chettle, Hathway, and Smith. *Eastward Ho*—Chapman, Ben Jonson, and Marston. *The Spensers*—Porter and Chettle. *Patient Man and Honest Jade*—Middleton and Dekker. *Patient Grissill*—Chettle, Dekker, and Haughton. *Fair Constance of Rome*—Monday, Drayton, and Haughton. *Chance Medley*—Monday, Dekker, and Wilson. *Cataline*—Wilson and Chettle. *Agamemnon*—Dekker and Chettle. *Cox of Collumpton*—Haughton and Day. *The Seven Wise Masters*—Day, Dekker, Haughton, and Chettle. As more than half the above instances are found in Henslowe's diary, which is the log-

book of a single manager during a period of 18 years, and *never would have been known* but for that work, and as there were a dozen theatres drinking new plays at this period, we may safely multiply the above list by eight or ten, to approach even the actual amount of collaboration. In a word, it is plain that collaboration was not less, but more general, than it now is in France. I have heard some people very merry over a French play with four authors. But Mr. Collier hints that he has encountered five and even six English authors to a play, "when good old Bess was Queen." — Preface to Henslowe's Diary, p. 19. Thus, you see, that which has been, above all others, singled out as a French characteristic, is no national nor natural characteristic whatever. In this as in other signs of a flourishing drama, France merely represents all human nature under just and efficient legislation, and the demand for invention, which is its invariable result.

Time the best Standing Test of Labour throughout the World.
— *Vide* pp. 12, 50, 162.

This is one of those obvious truths that do not require proof, but do require to be enforced, because feeble minds invariably forget it the moment justice depends on its being remembered. Moreover, truth itself would wither if we never watered our truisms. The ridiculous notion that intellectual labour is not measurable has often blinded the English courts. Time is not a *perfect* measure of labour either physical, or mental, but it is a good average measure of both, and as just a measure of one as of the other. Genius has been before me here. Gerard Dow kept a note-book, and used to price every picture he sold according to the number of hours he had been employed on it. And this was pure justice to his customer and to himself. No jurist will ever thoroughly comprehend the relative position of the honest author and the indirect pirate, who does not admit time as the best meter of intellectual labour. But apply this test, and the scales fall from your eyes, and you soon see that the indirect pirate's labour is next to nothing so compared with the inventor's labour, and is in fact much smaller than many a burglar's or great gold dust robber's honest labours. A gang of thieves once travelled up and down in the Manchester mail for two years, and paid the government several hundred pounds. Here was honest labour far beyond any literary pirate's. Yet when at last they succeeded in robbing the mail of ten thousand pounds, it was not accounted to them for righteousness. Yet they had a much stronger case than the pirate in *Strahan v. Newbery*, prejudice and partiality apart.

It is a fatal, though almost universal error, to assume that there are vital distinctions between the literary pirate and the Newgate thief. There is not one *vital* distinction of any sort between them. True, many of the latter are mere snatchers; but so are many

copyright thieves : true, the indirect pirate invests some little labour ; but so do all the higher class of Newgate thieves : in fact, they invest not only as much labour as the adapting, abridging, or kidnapping pirate, but also capital, which the scribbling pirate never invests, being a much needier man than his Newgate brother.

Nummus alii artes.

One would think so plain a truism need not to be argued. But Cephalomants can unrealize this or any other truism the moment truth needs it in argument. And in point of fact, this truism has been steadily unrealized by most of the gentlemen that write monthly moonshine about the drama.

To this there are honourable exceptions. Some three years ago, a writer in "Household Words" offered a common sense solution of the decline in our drama, and the rise in the French. He compared the prices paid for dramatic invention in France and England ; and showed that under the present system a popular writer could not afford to invent plays here. There was a howl of derision. Common sense was an entire novelty in dramatic criticism. The howl subsided ; and some of the ululators have since put forth that piece of common sense as their own, which is a common trick in literature, but none the less droll.

Thanks are also due to two respectable weeklies, the "Literary Gazette" and the "Critic," which have steadily supported common sense, and the above truth. I have also seen flashes of common sense and honesty in "The Universal Review;" and shall gladly see and acknowledge them elsewhere.

Money is not a luxury, it is the necessary of necessities.

Bishops, judges, warriors are all rewarded with money as well as honour. Were it not so, the scum of the earth would monopolize those functions.

An autograph letter of Washington was sold the other day, declining to reap any more glory for inadequate pay.

Lord Dundonald tells us, that the peculations of the Mediterranean Courts absorbed the greater portion of our captures, and that "this drawback generally disinclined officers and crews for making extraordinary exertions."

Talent follows the market with the utmost fidelity. Goldsmith, a greater novelist than dramatist, wrote but one novel, and two dramas. For solution, see prices. Fielding, a great novelist, but mediocre dramatist, wrote twenty-eight plays. Dryden, with a genius for almost everything — except plays, wrote twenty-seven plays. Bunyan and Defoe wrote fiction, but took good care not to bring it unbaptized into the market. Defoe, in particular, lied like a tooth-drawer, to keep out of so low a market as untheatrical fiction. See his prefaces to "Mrs. Veal," "Robinson Crusoe," "Voyage Round the World," etc., etc., etc. These exceptions,

therefore, prove nothing. What is now the best market for fiction? The serial story. What are the great geniuses of the day writing? Serials. Who laid the first stone of the great French drama? Beaumarchais. The actors were swindling the authors out of the benefit of good laws, by fraudulent by-laws, just as the old rabbis baffled the law of Moses by infinite exceptions. See Loménie's "Life of Beaumarchais," published by Addey and Co., vol. iii., pp. 16-65. A long and bitter struggle that great man had; but from that date the French drama has risen steadily though slowly with the rising prices.

Talent follows the market. Goldoni was the greatest Italian dramatist. What was the end of all his talent and all his successes? He was exiled from his native land; and by whom? by a king, or his favourite? No! by literary pirates. See his "Autobiography." He fled from these miscreants—whither? to the arms of British justice? *Pas si bête*: he was an author, not a merchant. He fled for justice and human sympathy to Paris. He ended by turning French author, wrote plays in French for the theatre, and his "Autobiography" in French for the publishers; and there he died in peace and comfort, and not swindled as he had been in his native land. *Vive la France!*

So much for nature. Is it according to nature that the best Italian writer should drop Italian and write French? Nature be hanged! Talent snaps its fingers at nature, and follows the market. The French have dramatists because they deserve them. Connect with the evidence already before you a piece of independent testimony in Bulwer's "England and the English," vol. i. There the author points out the cause that has determined similar genius towards the professional chair in Germany, and in France towards the ecclesiastical prizes. Same cause in both cases,—the best market.

See also an admirable passage in "The Autobiography of a Rogue," "Household Words," describing the rise of English painting in this century, and the means that brought it about.

In this book I have abused the quick and the dead like pickpockets.

This is not altogether my fault, but partly their own, for being pickpockets.

Still it is all the more pleasant to notice bright exceptions. Mr. Nelson Lee, manager of the City of London Theatre, and Mr. Johnson Towers, of the Victoria Theatre, declined to follow the lead of the Surrey and Grecian managers, in robbing me of my child by kidnapping "It is Never too Late to Mend." I have letters on the subject from those gentle-

men, the more honourable to their humanity and gentlemanly feeling, that bad examples were at hand to seduce them.

I beg them to accept this public testimony of esteem; and invite my readers throughout the world to make a note of their names, and of the worthy example they were the first to set in this island. Johnson Towers. Nelson Lee.

There is a great deal of cant in print against the class "publishers" in their dealing with authors. My personal experience, and my researches into literary history, have not confirmed this view. I have found some slippery tricks, but quite as often on the author's side as the publisher's; and, *on the whole*, I have found no other human beings dealing so fairly and liberally with authors as the publishers. Some day I hope to hold that balance fairly before the public. At present I confine myself to a single observation. The English and American publishers stand, with relation to American and English authors, much as the English managers do with respect to French dramatists. But what a contrast their conduct offers! The first-class publishers in the United States, and particularly Messrs. Appleton, Messrs. Harper, Messrs. Ticknor and Fields, pay English authors liberal sums — for what? — for early sheets, a mere start of a week or two in advance of the pirates. Messrs. Murray, Bentley, Sampson Low, and, I hope, others, in England, are equally just and liberal to American authors.

I am now sending out these sheets to Boston, U. S., with a considerable fear that Messrs. Ticknor and Fields will lose money by their spirit in publishing a well-meaning, unpopular work; but with a royal sense of security that, if they receive profits, they will fire as many dollars at me, or perhaps more, than their balance sheet justifies.

THE END.

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